FEDERAL REGISTER

VOLUME 17 NUMBER 148

Washington, Wednesday, July 30, 1952

TITLE 3—THE PRESIDENT

PROCLAMATION 2984

CITIZENSHIP DAY, 1952

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by a joint resolution approved February 29, 1952 (Public Law 261, 82d Congress), the Congress of the United States has designated the 17th day of September of each year as Citizenship Day in commemoration of the formation and signing on September 17, 1787, of the Constitution of the United States and in recognition of all who, by coming of age or by naturalization, have attained the full status of citizenship; and

WHEREAS it is most fitting that every citizen of the United States, whether native-born or foreign-born, should on September 17 of each year give special thought and consideration to his rights and responsibilities under our Constitution; and

WHEREAS the aforesaid resolution authorizes the President of the United States to issue annually a proclamation calling for the observance of Citizenship Day:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby direct the appropriate officials of the Government to display the flag of the United States on all public buildings on Wednesday, September 17, 1952, and I urge the people of the Nation to display the flag on that day at their homes and other suitable places.

I also urge Federal, State, and local officials, as well as patriotic, religious, civic, educational, and other interested organizations to arrange for appropriate ceremonies on Citizenship Day in which all our people may join to the end that both native-born and naturalized citizens may have a fuller understanding of their rights and privileges and of their obligations and responsibilities as citizens of the United States.

And I call upon all our citizens to renew and reaffirm on that day their faith in the principles and ideals embodied in the Constitution—the foundation of our strength and the symbol of freedom and justice for all.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 25th day of July in the year of our Lord nineteen hundred and fifty-two, [SEAL] and of the Independence of the United States of America the one hundred and seventy-seventh.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 52-8404; Filed, July 29, 1952; 10:21 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

SUBPART B—UNITED STATES STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS

U. S. STANDARDS FOR GRADES OF FROZEN LIMA BEANS

On April 27, 1951, a notice of proposed rule making was published in the FEDERAL REGISTER (16 F. R. 3621) regarding proposed United States Standards for Grades of Frozen Lima Beans.

After due consideration the revised standards were published in the FEDERAL REGISTER (17 F. R. 3783) on April 29, 1952, to become effective 30 days after date of publication thereof.

Subsequent thereto, it has been discovered that the industry has misinterpreted the color requirements of the standards. This amendment is issued to simplify the tolerances provided and to clarify the requirements with respect to the color of frozen lima beans, showing thereby that they are less restrictive than they are being interpreted.

The following amendment to the revised United States Standards for

(Continued on p. 6933)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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REVISED BOOKS

TITLE 32 of the Code of Federal Regulations

Title 32, containing the regulations of the Department of Defense and other related agencies, has been completely revised. Originally a single book, Title 32 is being reissued as two books as follows:

Parts 1–699 ($5.00)
Part 700 to end (to be announced)

These books contain the full text of regulations in effect on December 31, 1951

Order from
Superintendent of Documents, Government Printing Office, Washington 25, D. C.

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

Grades of Frozen Lima Beans is hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621, et seq.), and the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451, 82d Cong., approved July 5, 1952).

The Department finds that it is unnecessary and contrary to the public interest to give preliminary notice, engage in public rule making, and postpone the effective date of the amendment until thirty (30) days after date of publication in the FEDERAL REGISTER for the reasons that:

(1) The packing season for frozen lima beans is about to begin and it is urgent that the color provisions of the standards be properly understood for grading the product;

(2) No additional preparation on the part of industry is required;

(3) The amendment will create no hardships; therefore, the effective date of the amendment will be the date of publication in the FEDERAL REGISTER; therefore, the amendment is to become effective upon date of publication in the FEDERAL REGISTER.

Section 52.172, paragraph (e) (1), subdivisions (i), (ii), and (iii), are amended to read as follows:

(i) Frozen lima beans that possess a good color may be given a score of 54 to 60 points. "Good color" means that the lima beans, regardless of type, possess a bright typical color and meet the following additional color requirements for the respective types:

(a) Thin-seeded type (with skins removed); Thick-seeded Baby Potato type (with skins on). (1) Not less than 93 percent, by count, of the lima beans are "green" and not more than 7 percent, by count, may be lighter in color: *Provided,* That not more than 1 percent, by count, of all the lima beans are white, or

(2) Not less than 97 percent, by count, of the lima beans are "green" and not more than 3 percent, by count, may be lighter in color or white lima beans.

(b) Thick-seeded type (with skins on). Not less than 85 percent, by count, of the lima beans are "green" and not more than 15 percent, by count, may be lighter in color: *Provided,* That not more than 1 percent, by count, of all the lima beans are white.

(ii) If the frozen lima beans possess a reasonably good color, a score of 48 to 53 points may be given. Frozen lima beans that fall into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the lima beans, regardless of type, possess a typical color and meet the following additional requirements for the respective types:

(a) Thin-seeded type (with skins removed); Thick-seeded Baby Potato type (with skins on). Not less than 65 percent, by count, of the lima beans are "green" and not more than 35 percent, by count, may be lighter in color or white beans.

(b) Thick-seeded type (with skins on). Not less than 60 percent, by count, of the lima beans are "green" and not more than 40 percent, by count, may be lighter in color: *Provided,* That not more than 5 percent, by count, of all the lima beans are white.

(iii) If the frozen lima beans possess a fairly good color, a score of 42 to 47 points may be given. Frozen lima beans that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the lima beans, regardless of type, possess a typical color and meet the following additional requirements for the respective types:

(a) Thin-seeded type (with skins removed); Thick-seeded Baby Potato type (with skins on). Less than 65 percent, by count, of the lima beans are "green" and all of the lima beans may be white.

(b) Thick-seeded type (with skins on). Less than 60 percent, by count, of the lima beans are "green": *Provided,* That not more than 20 percent, by count, of all the lima beans are white."

(60 Stat. 1087; 7 U. S. C. 1621, Pub. Law 451, 82d Cong.)

Issued at Washington, D. C., this 25th day of July 1952.

[SEAL] GEORGE A. DICE,
Deputy Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 52-8339; Filed, July 29, 1952; 8:50 a. m.]

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

SUBPART B—UNITED STATES STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS[1]

U. S. STANDARDS FOR GRADES OF CANNED CREAM STYLE CORN

A notice of proposed rule making was published on May 24, 1952, in the FEDERAL REGISTER (17 F. R. 4767) regarding proposed United States Standards for Grades of Canned Cream Style Corn. After considering all relevant matters presented, including the proposals set forth in the aforesaid notice, the following United States Standards for Grades of Canned Cream Style Corn are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621, et seq.) and the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451; 82d Cong., approved July 5, 1952).

The Department finds that it is unnecessary and contrary to the public interest to give a 30-day notice of the effective date of the standards herewith published for the reasons that:

(1) The packing season for canned corn is about to begin;

(2) The industry has been properly apprised through rule making of the revisions:

(3) No additional preparation on the part of industry is required;

(4) The revisions create no hardships; therefore, the effective date of the standards issued will be the date of publication in the FEDERAL REGISTER.

§ 52.268 *Canned cream style corn.* "Canned cream style corn" means the canned product properly prepared from the clean, sound, succulent kernels of sweet corn as defined in the definition and standard of identity for canned corn (21 CFR 51.20) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(a) *Color of canned cream style corn.*

(1) White.

(2) Golden or Yellow.

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(b) *Grades of canned cream style corn.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned cream style corn that possesses similar varietal characteristics; that is tender; that possesses a good color; that possesses a good consistency; that is practically free from defects; that possesses a very good flavor; and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 90 points: *Provided,* That the cream style corn may possess a reasonably good color, a reasonably good consistency, and a good flavor if the total score is not less than 90 points.

(2) "U. S. Grade B" or "U. S. Extra Standard" is the quality of canned cream style corn that possesses similar varietal characteristics; that is reasonably tender; that possesses a reasonably good color; that possesses a reasonably good consistency; that is reasonably free from defects; that possesses a good flavor, and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 80 points: *Provided,* That the cream style corn may possess a fairly good color, scoring not less than 7 points, if the total score is not less than 80 points.

(3) "U. S. Grade C" or "U. S. Standard" is the quality of canned cream style corn that possesses similar varietal characteristics; that is fairly tender; that possesses a fairly good color; that possesses a fairly good consistency; that is fairly free from defect; that possesses a fairly good flavor; and that scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(4) "Substandard" is the quality of canned cream style corn that fails to meet the requirements of U. S. Grade C or U. S. Standard and may or may not meet the minimum standards of quality for canned cream style corn issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(c) *Fill of container for canned cream style corn.* The standard of fill of container for canned cream style corn is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purpose of these grades. The standard fill of container for canned cream style corn is a fill of not less than 90 percent of the total capacity of the container. Canned cream style corn that does not meet this requirement is "Below standard in fill."

(d) *Ascertaining the grade.* (1) The grade of canned cream style corn is ascertained by considering, in conjunction with the requirements of the respective grade, the respective ratings for the factors of color, consistency, absence of defects, tenderness and maturity, and flavor.

(2) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each such factor is:

Factors:	Points
(i) Color	10
(ii) Consistency	20
(iii) Absence of defects	20
(iv) Tenderness and maturity	30
(v) Flavor	20
Total score	100

(e) *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

(1) *Color.* (i) Canned cream style corn that possesses a good color may be given a score of 9 or 10 points. "Good color" means that the cut kernels possess a practically uniform color typical of tender sweet corn and that the product is bright and is practically free from "off-variety" kernels.

(ii) Canned cream style corn that possesses a reasonably good color may be given a score of 8 points. "Reasonably good color" means that the kernels possess a reasonably uniform color typical of reasonably tender sweet corn, and that the product may lack brightness but not to the extent that the appearance is materially affected, and is reasonably free from "off-variety" kernels.

(iii) Canned cream style corn that possesses a fairly good color may be given a score of 6 or 7 points. Canned cream style corn that scores 7 points in this classification shall not be graded above U. S. Grade B or U. S. Extra Standard and that scores 6 points in this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a partial limiting rule). "Fairly good color" means that the kernels possess a fairly uniform color typical of fairly tender sweet corn and that the product may be dull, but not to the extent that the appearance is seriously affected, and is fairly free from "off-variety" kernels.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 5 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Consistency.* The factor of consistency refers to the viscosity of the product, to the degree of smoothness, and to the separation of free liquor.

(i) Canned cream style corn that possesses a good consistency may be given a score of 18 to 20 points. "Good consistency" means that the canned cream style corn, after stirring and emptying from the container to a dry flat surface, possesses a heavy cream-like consistency with not more than a slight appearance of curdling, forms a slightly mounded mass, and that at the end of two minutes after emptying on the dry flat surface there is practically no separation of free liquor.

(ii) If the canned cream style corn has a reasonably good consistency a score of 16 or 17 points may be given. "Reasonably good consistency" means that the canned cream style corn, after stirring and emptying from the container to a dry flat surface, has a reasonably good creamy consistency, with not more than a moderate appearance of curdling, may flow just enough to level off to a nearly uniform depth or may be moderately stiff and moderately mounded, and that at the end of two minutes after emptying on the dry flat surface there may be a slight separation of free liquor.

(iii) Canned cream style corn that has a fairly good consistency may be given a score of 14 or 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good consistency" means that the canned cream style corn, after stirring and emptying on a dry flat surface, may be thin but not excessively thin, or thick but not excessively dry, pasty, or crumbly, or moderately but not excessively curdled, and that at the end of two minutes after emptying on the dry flat surface there may be a moderate but not excessive separation of free liquor. The approximate circular area over which the product spreads when emptied on a dry flat surface shall not exceed 12 inches except that in the case of canned cream style corn the washed, drained residue of which contains more than 20 percent of alcohol insoluble solids, the average diameter of the area over which the product spreads shall not exceed 10 inches.[1]

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality" for the following reason: excessively liquid.

(3) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from pieces of cob, husk, silk, or other harmless extraneous vegetable matter, from pulled kernels, kernels affected by insect injury, discolored kernels, or other defective kernels.

(i) Canned cream style corn that is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that pieces of cob, husk, silk, or other harmless extraneous vegetable matter, pulled kernels, kernels affected by insect injury, discolored kernels, or other defective kernels may be present that do not more than slightly affect the appearance or eating quality of the product.

(ii) If the canned cream style corn is reasonably free from defects a score of 16 or 17 points may be given. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the prod-

[1] Determined as outlined in the Standard of Quality for Canned Sweet Corn (21 CFR 51.21) promulgated under the Federal Food, Drug, and Cosmetic Act.

uct (this is a limiting rule). "Reasonably free from defects" means that pieces of cob, husk, silk, or other harmless extraneous vegetable matter, pulled kernels, kernels affected by insect injury, discolored kernels, or other defective kernels may be present that do not materially affect the appearance or eating quality of the product.

(iii) Canned cream style corn that is fairly free from defects may be given a score of 14 or 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means:

That for each 20 ounces of net weight there may be present: Not more than 1 cubic centimeter of pieces of cob; [2] and not more than 1 square inch (1" x 1") of husk; [2] and

That for each 2 ounces of net weight there may be present: Not more than 1 brown or black discolored kernel or discolored piece of kernel; [2] and

That for each 1 ounce of net weight there may be present: Not more than 6 inches of silk: [2] *Provided,* That pieces of cob, husk, silk, or other harmless extraneous vegetable matter, pulled kernels, kernels affected by insect injury, discolored kernels, or other defective kernels do not seriously affect the appearance or eating quality of the product.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality" for the applicable reasons:

Excessive discolored kernels.
Excessive cob.
Excessive husk.
Excessive silk.

(4) *Tenderness and maturity.* (i) Canned cream style corn that is tender may be given a score of 27 to 30 points. "Tender" means that the kernels are in the milk, early cream, or middle cream stage of maturity, have a tender texture, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the milk, early cream, or middle cream stage of maturity.

(ii) If the canned cream style corn is reasonably tender a score of 24 to 26 points may be given. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule). "Reasonably tender" means that the kernels are in the middle cream stage to late cream stage of maturity, have a reasonably tender texture, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the middle cream to late cream stage of maturity.

(iii) Canned cream style corn that is fairly tender may be given a score of 22 or 23 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly tender" means that the kernels are in the early dough or dough stage of maturity, may be firm but not hard or tough, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the early dough or dough stage of maturity. The weight of the alcohol insoluble solids of the washed, drained material [2] does not exceed 27 percent of the weight of such material.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality."

(5) *Flavor.* The factor of flavor refers to the palatability of the product. The natural flavor of the sweet corn and the effects of added sugar (sucrose) and salt are considered in evaluating this factor.

(i) Canned cream style corn that possesses a very good flavor may be given a score of 18 to 20 points. "Very good flavor" means that the product including added seasoning ingredients has a very good characteristic flavor and odor typical of tender canned sweet corn.

(ii) If the canned cream style corn possesses a good flavor a score of 16 or 17 points may be given. "Good flavor" means that the product including added seasoning ingredients has a good characteristic flavor and odor typical of reasonably tender canned sweet corn.

(iii) Canned cream style corn that possesses a fairly good flavor may be given a score of 14 or 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good flavor" means that the product may be lacking in good flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(f) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned cream style corn, the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(g) *Score sheet for canned cream style corn.*

Number, size, and kind of container			
Container marks or identification			
Label			
Net weight (ounces)			
Vacuum (inches)			
Color			
Factors	**Score points**		
I. Color	10	(A)	9–10
		(B)	8
		(C)	[1] 6–7
		(SStd.)	[2] 0–5
II. Consistency	20	(A)	18–20
		(B)	16–17
		(C)	[1] 14–15
		(SStd.)	[2] 0–13
III. Absence of defects	20	(A)	18–20
		(B)	[1] 16–17
		(C)	[1] 14–15
		(SStd.)	[2] 0–13
IV. Tenderness and maturity	30	(A)	27–30
		(B)	[1] 24–26
		(C)	[1] 22–23
		(SStd.)	[2] 0–21
V. Flavor	20	(A)	18–20
		(B)	16–17
		(C)	[1] 14–15
		(SStd.)	[2] 0–13
Total score	100		
Grade			

[1] Indicates partial limiting rule.
[2] Indicates limiting rule.

(h) *Effective time and supersedure.* The revised United States Standards for Grades of Canned Cream Style Corn (which are the fourth issue) contained in this section will become effective on date of publication in the FEDERAL REGISTER and will thereupon supersede the United States Standards for Grades of Canned Cream Style Corn which have been in effect since December 1, 1932.

(60 Stat. 1087; 7 U. S. C. 1621, Pub. Law 451, 82d Cong.)

Issued at Washington, D. C., this 25th day of July 1952.

[SEAL] GEORGE A. DICE,
Deputy Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 52-8340; Filed, July 29, 1952; 8:50 a. m.]

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

SUBPART B—UNITED STATES STANDARDS FOR GRADES OF PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS [1]

U. S. STANDARDS FOR GRADES OF CANNED WHOLE KERNEL (OR WHOLE GRAIN) CORN

A notice of proposed rule making was published on May 24, 1952, in the FEDERAL

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

REGISTER (17 F. R. 4769) regarding proposed United States Standards for Grades of Canned Whole Kernel (or Whole Grain) Corn. After considering all relevant matters presented, including the proposals set forth in the aforesaid notice, the following United States Standards for Grades of Canned Whole Kernel (or Whole Grain) Corn are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621, et seq.) and the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451; 82d Cong., approved July 5, 1952).

The Department finds that it is unnecessary and contrary to the public interest to give a 30-day notice of the effective date of the standards herewith published for the reasons that:

(1) The packing season for canned corn is about to begin;

(2) The industry has been properly apprised through rule making of the revisions;

(3) No additional preparation on the part of industry is required;

(4) The revisions create no hardships; therefore, the effective date of the standards issued will be the date of publication in the FEDERAL REGISTER.

§ 52.269 *Canned whole kernel (or whole grain) corn.* "Canned whole kernel (or whole grain) corn" means the canned product properly prepared from the clean, sound, succulent kernels of sweet corn as defined in the definition and standard of identity for canned corn (21 CFR 51.20) issued pursuant to the Federal Food, Drug, and Cosmetic Act. The product is considered "Vacuum Pack" or "Vacuum Packed" when the liquid in the container[2] is not more than 20 percent of the net weight and the container is closed under conditions creating a high vacuum.

(a) *Color of canned whole kernel (or whole grain) corn.* (1) White.

(2) Golden or Yellow.

(b) *Grades of canned whole kernel (or whole grain) corn.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned whole kernel (or whole grain) corn that possesses similar varietal characteristics; that is tender; that possesses a good color; that is well cut; that is practically free from defects; that possesses a very good flavor; and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 90 points: *Provided,* That the canned whole kernel (or whole grain) corn may possess a reasonably good color, a good flavor, and may be reasonably well cut, if the total score is not less than 90 points.

(2) "U. S. Grade B" or "U. S. Extra Standard" is the quality of canned whole kernel (or whole grain) corn that possesses similar varietal characteristics; that is reasonably tender; that possesses a reasonably good color; that is reasonably well cut; that is reasonably free from defects; that possesses a good flavor; and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 80 points: *Provided,* That the canned whole kernel (or whole grain) corn may possess a fairly good color, scoring not less than 7 points, and may be fairly well cut, if the total score is not less than 80 points.

(3) "U. S. Grade C" or "U. S. Standard" is the quality of canned whole kernel (or whole grain) corn that possesses similar varietal characteristics; that is fairly tender; that possesses a fairly good color; that is fairly well cut; that is fairly free from defects; that possesses a fairly good flavor; and that scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(4) "Substandard" is the quality of canned whole kernel (or whole grain) corn that fails to meet the requirements of U. S. Grade C or U. S. Standard and may or may not meet the minimum standards of quality for canned whole kernel (or whole grain) corn issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(c) *Recommended fill of container.* The recommended fill of container for canned whole kernel (or whole grain) corn is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container of canned whole kernel (or whole grain) corn be filled as full as practicable with the product.

(d) *Recommended minimum drained weight.* The minimum drained weight recommendations of Table No. I of this section are not incorporated in the grades of the finished product, since drained weight, as such, is not a factor of quality for the purpose of these grades. The drained weight of whole kernel (or whole grain) corn is determined by emptying the contents of the container upon a United States Standard No. 8 circular sieve of proper diameter so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage and allowing to drain for two minutes. The drained weight is the weight of the sieve and the whole kernel (or whole grain) corn less the weight of the dry sieve. A sieve 8 inches in diameter is used for the No. 2½ size can (401" x 411") and smaller sizes and a sieve 12 inches in diameter is used for containers larger than the No. 2½ size can.

TABLE No. I—RECOMMENDED MINIMUM DRAINED WEIGHTS, IN OUNCES, OF WHOLE KERNEL (OR WHOLE GRAIN) CORN (EXCEPT VACUUM PACK)

Container size or designation	Grade A, tenderness and maturity minimum drained weight (ounces)	Grades B, C, and substandard tenderness and maturity minimum drained weight (ounces)
8 ounce, tall	5.25	5.50
No. 1 (picnic)	6.75	7.00
No. 300	9.25	9.50
No. 303	10.50	10.75
No. 2	12.75	13.25
No. 10	70.00	72.00

(e) *Ascertaining the grade.* (1) The grade of canned whole kernel (or whole grain) corn is ascertained by considering, in conjunction with the requirements of the respective grade, the respective ratings for the factors of color, cut, absence of defects, tenderness and maturity, and flavor.

(2) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each such factor is:

Factors:	Points
(i) Color	10
(ii) Cut	10
(iii) Absence of defects	20
(iv) Tenderness and maturity	40
(v) Flavor	20
Total score	100

(f) *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

(1) *Color.* (i) Canned whole kernel (or whole grain) corn that possesses a good color may be given a score of 9 or 10 points. "Good color" means that the kernels possess a practically uniform color typical of tender sweet corn and that the product is bright and is practically free from "off-variety" kernels.

(ii) Canned whole kernel (or whole grain) corn that possesses a reasonably good color may be given a score of 8 points. "Reasonably good color" means that the kernels possess a reasonably uniform color typical of reasonably tender sweet corn and that the product may lack brightness but not to the extent that the appearance is materially affected and is reasonably free from "off-variety" kernels.

(iii) Canned whole kernel (or whole grain) corn that possesses a fairly good color may be given a score of 6 or 7 points. Canned whole kernel (or whole grain) corn that scores 7 points in this classification shall not be graded above U. S. Grade B or U. S. Extra Standard and that scores 6 points in this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a partial limiting rule). "Fairly good color" means that the kernels possess a fairly uniform color typical of fairly tender sweet corn and that the product may be dull but not to the extent that the appearance is seriously affected and is fairly free from "off-variety" kernels.

(iv) Canned whole kernel (or whole grain) corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 5 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(2) *Cut.* The factor of cut refers to the degree of smoothness of the cut surface of the kernels, uniformity and depth of cut, and to the degree of freedom from adhering cob tissue.

(i) Canned whole kernel (or whole grain) corn which has been well cut may be given a score of 9 or 10 points. "Well cut" means that the appearance of the

[2] Determined as outlined in the Standard of Quality for Canned Sweet Corn (21 CFR 51.21) promulgated under the Federal Food, Drug, and Cosmetic Act.

product is not more than slightly affected by the presence of ragged cut kernels, torn kernels, irregular cut kernels, and kernels with attached cob tissue.

(ii) Canned whole kernel (or whole grain) corn in which the kernels are reasonably well cut may be given a score of 8 points. "Reasonably well cut" means that the appearance of the product is not materially affected by the presence of ragged cut kernels, torn kernels, irregular cut kernels, and kernels with attached cob tissue.

(iii) Canned whole kernel (or whole grain) corn in which the kernels are fairly well cut may be given a score of 6 or 7 points. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule). "Fairly well cut" means that the appearance of the product is not seriously affected by the presence of ragged cut kernels, torn kernels, irregular cut kernels, and kernels with attached cob tissue.

(iv) Canned whole kernel (or whole grain) corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 5 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(3) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from pieces of cob, husk, silk, or other harmless extraneous vegetable matter, from pulled kernels, ragged kernels, crushed kernels, loose skins, and from damaged or seriously damaged kernels.

"Damaged kernel" means any kernel affected by insect injury, or damaged by discoloration, pathological injury, or by other means to the extent that the appearance or eating quality is materially affected.

"Seriously damaged kernel" means damaged to such an extent that the appearance or eating quality is seriously affected.

(i) Canned whole kernel (or whole grain) corn that is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that pieces of cob, husk, silk, or other harmless extraneous vegetable matter, pulled kernels, ragged kernels, crushed kernels, loose skins, and damaged or seriously damaged kernels may be present that do not more than slightly affect the appearance or eating quality of the product.

(ii) If the canned whole kernel (or whole grain) corn is reasonably free from defects a score of 16 or 17 points may be given. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that pieces of cob, husk, silk, or other harmless extraneous vegetable matter, pulled kernels, ragged kernels, crushed kernels, loose skins, and damaged or seriously damaged kernels may be present that do not materially affect the appearance or eating quality of the product.

(iii) Canned whole kernel (or whole grain) corn that is fairly free from defects may be given a score of 14 or 15 points. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that for each 14 ounces of drained weight there may be present:

Not more than 1 cubic centimeter of pieces of cob;[2]

Not more than 1 square inch (1" x 1") of husk;[2] and

For each 2 ounces of drained weight there may be present:

Not more than 1 brown or black discolored kernel or discolored piece of kernel;[2] and

For each 1 ounce of drained weight there may be present:

Not more than 7 inches of silk:[2] *Provided,* That pieces of cob, silk, or other harmless extraneous vegetable matter, pulled kernels, ragged kernels, crushed kernels, loose skins, and damaged or seriously damaged kernels do not seriously affect the appearance or eating quality of the product.

(iv) Canned whole kernel (or whole grain) corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality" for the applicable reasons:

Excessive discolored kernels.
Excessive cob.
Excessive husk.
Excessive silk.

(4) *Tenderness and maturity.* (i) Canned whole kernel (or whole grain) corn that is tender may be given a score of 36 to 40 points. "Tender" means that the kernels are in the milk or early cream stage of maturity and have a tender texture.

(ii) If the canned whole kernel (or whole grain) corn is reasonably tender a score of 32 to 35 points may be given. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule). "Reasonably tender" means that the kernels are in the cream stage of maturity and have a reasonably tender texture.

(iii) Canned whole kernel (or whole grain) corn that is fairly tender may be given a score of 30 or 31 points. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly tender" means that the kernels are in the early dough or dough stage and may be firm but not hard or tough. The weight of the alcohol insoluble solids[2] shall not exceed 27 percent of the drained weight.

(iv) Canned whole kernel (or whole grain) corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 29 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality."

(5) *Flavor.* The factor of flavor refers to the palatability of the product. The natural flavor of the sweet corn and the effects of added sugar (sucrose) and salt are considered in evaluating this factor.

(i) Canned whole kernel (or whole grain) corn that possesses a very good flavor may be given a score of 18 to 20 points. "Very good flavor" means that the product including added seasoning ingredients has a very good characteristic flavor and odor typical of tender canned sweet corn.

(ii) If the canned whole kernel (or whole grain) corn possesses a good flavor a score of 16 or 17 points may be given. "Good flavor" means that the product including added seasoning ingredients has a good characteristic flavor and odor typical of reasonably tender canned sweet corn.

(iii) Canned whole kernel (or whole grain) corn that possesses a fairly good flavor may be given a score of 14 or 15 points. Canned whole kernel (or whole grain) corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good flavor" means that the product may be lacking in good flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

(iv) Canned whole kernel (or whole grain) corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

(g) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned whole kernel (or whole grain) corn the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, is within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(h) *Score sheet for canned whole kernel (or whole grain) corn and canned*

[2] See footnote on p. 6936.

whole kernel (or whole grain) and vacuum pack corn.

Number, size, and kind of container		----
Container marks or identification		----
Label		----
Net weight (ounces)		----
Vacuum (inches)		----
Drained weight (ounces)		----
Color		----

Factors		Score points	
I. Color	10	(A)	9–10
		(B)	8
		(C)	[1] 6–7
		(SStd.)	[2] 0–5
II. Cut	10	(A)	9–10
		(B)	8
		(C)	[2] 6–7
		(SStd.)	[2] 0–5
III. Absence of defects	20	(A)	18–20
		(B)	[2] 16–17
		(C)	[2] 14–15
		(SStd.)	[2] 0–13
IV. Tenderness and maturity	40	(A)	36–40
		(B)	[2] 32–35
		(C)	[2] 30–31
		(SStd.)	[2] 0–29
V. Flavor	20	(A)	18–20
		(B)	16–17
		(C)	[2] 14–15
		(SStd.)	[2] 0–13
Total score	100		

Grade	

[1] Indicates partial limiting rule.
[2] Indicates limiting rule.

(i) *Effective time and supersedure.* The revised United States Standards for Grades of Canned Whole Kernel (or Whole Grain) Corn (which are the fourth issue) contained in this section will become effective on date of publication in the FEDERAL REGISTER and will thereupon supersede the United States Standards for Grades of Canned Whole Kernel (or Whole Grain) Corn which have been in effect since December 1, 1932.

(60 Stat. 1087; 7 U. S. C. 1621, Pub. Law 451, 82d Cong.)

Issued at Washington, D. C., this 25th day of July 1952.

[SEAL] GEORGE A. DICE,
Deputy Assistant Administrator, Production and Marketing Administration.

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Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 976—MILK IN THE FORT SMITH, ARKANSAS, MARKETING AREA

ORDER REGULATING THE HANDLING OF MILK IN THE FORT SMITH, ARKANSAS, MARKETING AREA

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AUTHORITY: §§ 976.0 to 976.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 976.0 *Findings and determinations—(a) Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Fort Smith, Arkansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the months of (i) other source milk which is classified as Class I milk, and (ii) milk from producers including such handler's own production.

(b) *Additional findings.* In view of the fact that this order will constitute the original imposition of a regulatory program of this nature for the market, the provisions other than those relating to prices and payments to producers, should be put into effect prior to the effective date of the provisions relating to prices and payments to producers, in order that handlers may have opportunity to make necessary adjustments in their accounting and other operational procedures to conform with all provisions of the order. Reasonable time will have been afforded interested parties to prepare to comply with the aforesaid provisions. It is hereby found and determined, in view of the aforesaid facts and circumstances, that good cause exists for making §§ 976.1 through 976.15, 976.20 through 976.22 (f), 976.22 (k), 976.30 through 976.34, 976.40 through 976.46, 976.60 through 976.61 (a), 976.87, 976.88, 976.100 through 976.103, 976.110 and 976.111 effective on August 1, 1952, and that it would be contrary to the public interest to delay such effective date beyond that specified.

(c) *Determinations.* It is hereby determined that handlers (excluding co-

operative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order which is marketed within the Fort Smith, Arkansas, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who during the determined representative period (May 1952) were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Fort Smith, Arkansas, marketing area shall be in conformity to and in compliance with the following terms and conditions as set forth below:

DEFINITIONS

§ 976.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 976.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 976.3 *Department.* "Department" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 976.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 976.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members, and (c) to be engaged in making collective sales or marketing milk or its products for its members.

§ 976.6 *Fort Smith, Arkansas, Marketing Area.* "Fort Smith, Arkansas, Marketing Area", hereinafter called the marketing area, means all territory within the corporate limits of Fort Smith, Arkansas, and Van Buren, Arkansas, and within the boundaries of the Camp Chaffee military reservation.

§ 976.7 *Approved plant.* "Approved plant" means any milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

§ 976.8 *Unapproved plant.* "Unapproved plant" means any milk processing or distributing plant other than an approved plant.

§ 976.9 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant; or (b) any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 976.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received at an approved plant: *Provided,* That such milk is produced under a dairy farm inspection permit or inspection rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as fluid milk. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 976.61.

§ 976.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 976.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 976.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 976.14 *Base milk.* "Base milk" means milk received from a producer by a handler during any of the months of April through June which is not in excess of such producer's daily average base computed pursuant to § 976.90 multiplied by the number of days in such month for which the handler received milk from the producer.

§ 976.15 *Excess milk.* "Excess milk" means milk received from a producer by a handler during any of the months of April through June which is in excess of base milk received from such producer during such month, and shall include all milk received during such month from any producer for whom no daily average base has been established pursuant to § 976.90.

MARKET ADMINISTRATOR

§ 976.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 976.21 *Powers.* The market administrator shall have the following powers with respect to this subpart.

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 976.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 976.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 976.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and upon request by the secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 976.30 through 976.32;

(2) Maintained adequate records and facilities pursuant to § 976.33; or

(3) Made payments pursuant to §§ 976.80 through 976.87;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum prices for Class I milk pursuant to § 976.51 (a) and the Class I butterfat differential pursuant to § 976.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 976,51 (b) and the Class II butterfat differential pursuant to § 976.52 (b), both for the preceding month; and

(2) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 976.71 or § 976.72, as applicable, and the butterfat differential computed pursuant to § 976.81, both applicable to milk delivered during the preceding month; and

(k) Prepare and disseminate to the public such statistics and other information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 976.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on route(s) wholly outside the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 976.31 *Reports of payments to producers.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of April through June such producer's deliveries of base and excess milk;

(b) The amount of payment to each producer or cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 976.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 976.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 976.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That is, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 976.40 *Basis of classification.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 976.30 shall be classified by the market administrator pursuant to the provisions of §§ 976.41 through 976.46.

§ 976.41 *Classes of utilization.* Subject to the conditions set forth in §§ 976.43 and 976.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream and any mixture of cream and milk or skim milk (except bulk ice cream mix), and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section; (2) disposed of for livestock feed; (3) in shrinkage allocated to receipts of milk from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat respectively, (4) in shrinkage allocated to receipts of other source milk; and (5) in inventory variations of milk, skim milk, cream or any Class I product.

§ 976.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 976.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified in one class (except that transferred to a producer-handler) shall be reclassified if used or reused by such handler or by another handler in another class.

§ 976.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 976.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located more than 185 miles from the approved plant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant located more than 185 miles from an approved plant by the shortest highway distance as determined by the market administrator, and as Class II milk if so transferred without Grade A certification.

(e) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 185 miles from the approved plant, and from which fluid milk is disposed of on wholesale or retail routes unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred or diverted from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at such unapproved plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for fluid usage of such unapproved plant in markets supplied by such plant.

(f) As Class II milk if transferred or diverted in the form of milk, skim milk, or cream to an unapproved plant located not more than 185 miles from the approved plant and from which fluid milk is not disposed of on wholesale or retail routes.

§ 976.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 976.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 976.45, the market administrator shall determine the classification of milk received by each handler from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 976.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in a form other than milk, skim milk or cream according to its classification pursuant to § 976.41;

(3) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 976.44 (a).

(5) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 976.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 976.51 (b) for the preceding month.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Oxfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 976.51 *Class prices.* Subject to the provisions of § 976.52 the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.45 for the months of April, May, and June, and plus $1.85 for all other months: *Provided,* That for each of the months of October, November, and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May, and June, such price shall not be more than that for the preceding month.

(b) *Class II milk.* The price for Class II milk shall be the average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Carnation Co., Mount Vernon, Mo.
Pet Milk Co., Neosho, Mo.
Pet Milk Co., Siloam Springs, Ark.
Sugar Creek Creamery, Russellville, Ark.

Provided, That such price shall not be less than the price computed pursuant to § 976.50 (b) for the month, less 26 cents during April, May, June, or July and less 16 cents during all other months.

§ 976.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 976.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 976.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the applicable factor listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25:

(b) *Class II milk.* Multiply such price for the current month by 1.15.

APPLICATION OF PROVISIONS

§ 976.60 *Producer-handlers.* Sections 976.40 through 976.46, 976.50 through 976.52, 976.70 through 976.72, 976.80 through 976.87, 976.90 and 976.91, shall not apply to a producer-handler.

§ 976.61 *Milk priced under other Federal orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by a milk marketing agreement or order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified as Class I milk under this subpart is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order (subject to a deduction of 45 cents per hundredweight if the approved plant of such handler is subject to Federal Order No. 21) and its value as determined pursuant to the other order to which he is subject.

DETERMINATION OF UNIFORM PRICE

§ 976.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices, adding together the resulting amounts and adding an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 976.46 by the applicable class prices.

§ 976.71 *Computation of uniform prices.* For each of the months of July through March the market administrator shall compute the uniform prices per hundredweight for milk of 4.0 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 976.70 for all handlers who made the reports prescribed in § 976.30 and who made the payments pursuant to §§ 976.80 and 976.83 for the preceding month;

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 976.84.

(c) Subtract, if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 976.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting amount by the total hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

§ 976.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to § 976.70 for all handlers who made the reports prescribed in § 976.30 and who made the payments pursuant to §§ 976.80 and 976.83 for the preceding month;

(b) Add not less than one-half of the cash balance in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 976.84;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 976.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers.

(f) Subtract the value of excess milk obtained in paragraph (d) of this section from the value of all milk obtained pursuant to paragraphs (a), (b) and (c) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk included in these computations; and

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

PAYMENTS

§ 976.80 *Time and method of payment.* Each handler shall make payment to producers as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer except as provided in paragraph (c) of this section, (1) at not less than the uniform price computed pursuant to § 976.71 for all milk received from such producer if such preceding month was any of the months of July through March, or (2) at not less than the uniform price for base milk computed pursuant to § 976.72 (h), with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 976.72 (e) with respect to excess milk received from such producer, if such preceding month was any of the months of April through June, in each case adjusted by the butterfat differential computed pursuant to § 976.81 and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if such handler has not received full payment for such month pursuant to § 976.84, he may reduce his total payments to all producers uniformly by not more than the amount of the reduction in payments from the market administrator; and the handler shall after receipt of such payment from the market administrator complete the payments to those producers not later than the date for making payments pursuant to this paragraph next following after receipt of the balance from the market administrator.

(b) On or before the last day of each month, each handler shall make payment for milk received from producers during the first 15 days of the month to each producer, except as provided in paragraph (c) of this section, at not less than the Class II price for the preceding month.

(c) On or before the 13th and the third from the last day of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively of this section, each handler shall make payment to a cooperative association which so request, with respect to producers for which such cooperative association is authorized to collect payment, in an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 976.81 *Producer butterfat differential.* In making payments pursuant to § 976.80, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 976.82 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 976.61 (b), 976.83 and 976.85, and out of which he shall make all payment to handlers pursuant to §§ 976.84 and 976.85.

§ 976.83 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator (a) the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 976.70 is greater than the amount required to be paid producers by such handler pursuant to § 976.80, and (b) any amount required pursuant to § 976.61 (b).

§ 976.84 *Payments out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 976.70 is less than the amount required to be paid producers by such handler pursuant to § 976.80: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 976.85 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which error occurred.

§ 976.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 976.80, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions, and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 976.31.

§ 976.87 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 976.88 *Termination of obligation.* The provisions of this section shall apply to any obligations under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of paragraphs (b) and (c) of this section, terminates two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representative all books and records required by this subpart to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 976.90 *Computation of daily average base for each producer.* For the months of April through June of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 976.91:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of October through January immediately preceding by the number of days, not to be less than ninety, of such producer's delivery in such period.

§ 976.91 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing on or before the last day of any applicable base paying month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carriers on the dairy herd operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 976.100 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 976.101.

§ 976.101 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provisions of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 976.102 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 976.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 976.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 976.111 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision and the remaining provisions of this subpart to other persons or circumstances, shall not be affected thereby.

Issued at Washington, D. C. this 25th day of July 1952.

Sections 976.1 through 976.15, 976.20 through 976.22 (f), 976.22 (k), 976.30 through 976.34, 976.40 through 976.46, 976.60 through 976.61 (a), 976.87, 976.88, 976.100 through 976.103, 976.110 and 976.111, shall be effective on and after the first day of August 1952, and the entire order (§§ 976.1 through 976.111) shall be effective on and after the first day of September 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

[F. R. Doc. 52-8335; Filed, July 29, 1952; 8:49 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 309, Amdt. 7]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

QUARANTINE AND REGULATIONS RESTRICTING INTERSTATE TRANSPORTATION OF SWINE AND CERTAIN SWINE PRODUCTS BECAUSE OF VESICULAR EXANTHEMA

Pursuant to the authority conferred by sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123 and 125), sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111 and 120), and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117), a notice of the existence of the swine disease of vesicular exanthema in certain localities and a quarantine and regulations restricting the movement of swine and certain swine products because of vesicular exanthema are hereby promulgated to appear in a new Subpart B in Part 76 of Title 9, Code of Federal Regulations, as follows:

SUBPART B—VESICULAR EXANTHEMA

Sec.
76.9 Definitions.
76.10 Notice and quarantine.
76.11 Movement of swine and swine products.
76.12 Disinfection of facilities.

§ 76.9 *Definitions.* As used in this subpart, the following terms shall have the meanings set forth below.

(a) *Bureau.* The term "Bureau" means the Bureau of Animal Industry of the United States Department of Agriculture.

(b) *Chief of the Bureau.* The term "Chief of the Bureau" means the Chief of the Bureau or any other official of the Bureau to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(c) *Person.* The term "person" means any person, company or corporation.

(d) *Moved.* As applied to swine, the term "moved" means transported, shipped, delivered or received for transportation, driven on foot or caused to be driven on foot, by any person, and as applied to swine products, the term "moved" means transported, shipped or delivered or received for transportation, by any person.

(e) *Swine product.* The term "swine product" means any carcass, part or offal of swine.

(f) *Interstate.* The term "interstate" means from one State, Territory, or the District of Columbia, into or through any other State, Territory, or the District of Columbia.

§ 76.10 *Notice and quarantine.* (a) Notice is hereby given that the contagious, infectious and communicable disease of swine known as vesicular exanthema exists in the following areas:

Jefferson and Mobile counties in Alabama;
Gila county in Arizona;
The State of California;
Fulton county in Georgia;
Orland township in Cook county and Lake county in Illinois;
Pocahontas and Woodbury counties in Iowa;
Geary, Sedgwick and Wyandotte counties in Kansas;
Buchanan, Clinton, Green, Howell, and Jackson counties in Missouri;
Box Butte, Dodge, Douglas, Hall, Saunders, and Washington counties in Nebraska;
Burlington, Hudson, and Ocean counties in New Jersey;
New York county in New York;
Franklin county in Ohio;
Marion and Multnomah counties in Oregon;
Minnehaha county in South Dakota;
King and Spokane counties in Washington; and
Laramie county in Wyoming;

(b) The Secretary of Agriculture, having determined that swine in the States named in paragraph (a) of this section are affected with the contagious, infectious and communicable disease known as vesicular exanthema and that it is necessary to quarantine the areas specified in paragraph (a) of this section and the following additional areas in such States, in order to prevent the spread of said disease from such States, hereby quarantines the areas specified in paragraph (a) of this section and in addition Atchison, Doniphan, Johnson and Leavenworth counties in Kansas; Clay and Platte counties in Missouri; and Bergen, Essex and Union counties in New Jersey. Hereafter no swine or swine products shall be moved interstate from any such quarantined area except as provided in the regulations in this subpart.

§ 76.11 *Movement of swine and swine products*—(a) *From a quarantined area.* No swine shall be moved interstate from any quarantined area specified in § 76.10 except to an establishment specifically approved for the purpose by the Chief of the Bureau, for immediate slaughter and further processing at such establishment in a manner approved by said Chief as adequate to prevent the spread of vesicular exanthema. No swine products shall be moved interstate from any quarantined area specified in § 76.10 except to an establishment specifically approved for the purpose by the Chief of the Bureau, for processing in a manner approved by said Chief as adequate to prevent the spread of said disease: *Provided, however,* That swine products identified by warehouse receipts or other information satisfactory to the Chief of the Bureau as having been slaughtered prior to June 16, 1952, may be moved interstate for any purpose with the approval of the Bureau. The Chief of Bureau may require that swine and swine products which have been exposed to or have been affected with vesicular exanthema, and which are moved interstate from any quarantined area to an approved establishment for slaughter or processing, shall be moved under Bureau seal or accompanied by a representative of the Bureau.

(b) *Through a quarantined area.* No swine or swine products which are moved interstate between points outside the quarantined areas specified in § 76.10 through any such quarantined area shall be unloaded in any such quarantined area unless all facilities to be used therein in connection with the unloading have been cleaned and disinfected in a manner approved by the Bureau and under the supervision of a person authorized for the purpose by the Bureau.

§ 76.12 *Disinfection of facilities.* Railroad cars, trucks, boats, and all other facilities, including facilities for feeding, watering, and resting swine, which are used in connection with the interstate movement of swine or swine products from a quarantined area specified in § 76.10 shall be thoroughly cleaned and disinfected immediately after each such use. Two percent sodium hydroxide (lye) at the rate of one 13-ounce can to five gallons of water or four percent sodium carbonate (soda ash-sal soda) at the rate of one pound to three gallons of water shall be used in such disinfection.

A new center heading "Subpart A—General Restrictions" is inserted preceding §§ 76.1 through 76.8 of Part 76.

Effective date. The notice, quarantine and regulations set forth above shall become effective upon issuance.

Said notice, quarantine and regulations impose restrictions necessary to prevent the spread of the contagious, infectious and communicable disease of swine known as vesicular exanthema, from the States in which such disease has been found to exist to other States or Territories of the United States or the District of Columbia. They must be made effective immediately in order to accomplish their purpose. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that notice and other public procedure with respect to the notice, quarantine and regulations are impracticable and contrary to the public interest and good cause is found for making them effective less than 30 days after their publication in the FEDERAL REGISTER.

(Secs. 1 and 3, 33 Stat. 1264, 1265, as amended, 21 U. S. C. 123 and 125; secs. 1 and 2, 32 Stat. 791, 792, as amended, 21 U. S. C. 111 and 120; sec. 7, 23 Stat. 32, as amended, 21 U. S. C. 117)

Done at Washington, D. C., this 24th day of July 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

[F. R. Doc. 52-8306; Filed, July 29, 1952; 8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Regs., Serial No. SR-385]

PART 40—AIR CARRIER OPERATING CERTIFICATION

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS, OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

PART 61—SCHEDULED AIR CARRIER RULES

SPECIAL CIVIL AIR REGULATION; DELEGATION OF AUTHORITY TO THE ADMINISTRATOR TO PERMIT AIR CARRIERS UNDER CONTRACT TO THE MILITARY SERVICES TO DEVIATE FROM CIVIL AIR REGULATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 24th day of July 1952.

Some time ago the Air Transport Association (ATA) on behalf of several scheduled air carriers under contract to the military services requested that authority be granted to such carriers to permit them to deviate from certain provisions of Parts 40, 41, 42, 45, and 61 of the Civil Air Regulations, under which they were then required to operate, in order to permit such carriers to accomplish expeditiously the mission assigned them by the military services. ATA stated that, in view of the type of operations that these carriers had been requested to perform, certain provisions of those parts imposed an undue burden upon the air carriers involved. It appeared that several difficulties encountered in complying with current regulations resulted from the fact that some of the air carriers were acting in the capacity of prime contractors with the military services, while others were acting as subcontractors and were merely furnishing aircraft and/or flight crews to another air carrier for use in operations conducted pursuant to the military contracts. It should be noted that Parts 40, 41, 42, 45, and 61 were designed to be applicable to scheduled and irregular air carrier operations performed under normal operating conditions. The Board believed that the type of operation which air carriers were expected to perform in executing their obligations under military contracts was a specialized type of operation different in many respects from the normal type of air carrier operation envisaged by the then current Civil Air Regulations relating to air carrier operations. For those reasons, the Board, on July 28, 1950, adopted Special Civil Air Regulation SR-349 which delegated authority to the Administrator to permit air carriers under contract to the military services to deviate from certain parts of the Civil Air Regulations in performing such contracts, such authority to terminate on August 1, 1951. This authority was extended to August 1, 1952, by SR-367.

Since the military requirements, as a result of which Special Civil Air Regulations SR-349 and SR-367 were promulgated, continue to exist, and since no serious objection to the regulation has been raised during nearly 2 years of operations under it, the Board believes the Civil Air Regulations applicable to air carriers should continue to be adjusted to the type of operation to be conducted under military contracts to the extent that the Administrator finds that deviation from those regulations is necessary or desirable for the expeditious conduct of such operations. Accordingly, the Board concludes that the provisions of SR-367 should be immediately extended for one year to maintain the delegated authority in the Administrator without lapse.

The Board considers it necessary to continue to limit the operations conducted pursuant to any deviation granted by the Administrator to those operations conducted pursuant to military contracts and to require that all operations conducted in accordance with such deviations be conducted in accordance with such terms and conditions as the Administrator may prescribe in granting the deviation. It is anticipated that the Administrator will continue, as part of the procedure in issuing a deviation of major importance, to coordinate his decision with the Board and the appropriate military authorities.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. Since this regulation imposes no additional burden on any person, it may be made effective on less than 30 days' notice.

In consideration of the foregoing the Civil Aeronautics Board hereby makes and promulgates a Special Civil Air Regulation effective August 1, 1952, to read as follows:

1. Contrary provisions of the Civil Air Regulations notwithstanding, the Administrator may, upon application by an air carrier, authorize an air carrier under contract to the military services, or an air carrier furnishing civil aircraft and/or flight crews to another air carrier for use in operations conducted pursuant to a contract with the military services, to deviate from the applicable provisions of Parts 40, 41, 42, 45, and 61 to the extent that he finds upon investigation a deviation from those regulations is necessary or desirable for the expeditious conduct of such operations.

2. Any authority granted by the Administrator pursuant to this regulation shall be limited to those operations conducted pursuant to military contracts and shall not be applicable to any other type of operation.

3. The Administrator shall, in any authorization granted pursuant to this regulation, specify the terms and conditions under which the air carrier may deviate from the currently prescribed regulations, and each carrier shall, in the conduct of operations pursuant to military contracts, comply with such terms and conditions.

This regulation shall terminate August 1, 1953, unless sooner superseded or rescinded.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, 62 Stat. 1216; 49 U. S. C. 452, 551-560)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 52-8332; Filed, July 29, 1952; 8:48 a. m.]

Subchapter B—Economic Regulations

[Regs., Serial No. ER–174]

PART 241—FILING OF REPORTS BY CERTIFICATED AIR CARRIERS AND UNIFORM ACCOUNTING REQUIREMENTS

REPORTING PROCEDURES

Adopted by direction of the Civil Aeronautics Board at its office in Washington, D. C., on the 22d day of July 1952.

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Air Operations, this amendment to Part 241 of the Economic Regulations (14 CFR Part 241) is being adopted for the purpose of condensing and otherwise modifying the present reporting requirements for certificated air carriers. The objective is to reduce the burden of both preparing and administering CAB Form 41 reports.[1] In general, the changes relate to such matters as reducing the reporting frequency for certain schedules and discontinuing schedules or deleting items from them, although in one instance, requirements will be modified in such a way that an additional breakdown of certain tax expense figures will be necessary. Thus the proposed changes, for the most part, represent relief from the burden of existing requirements.

Notice of these proposed changes was published in the FEDERAL REGISTER on June 12, 1952, in Draft Release No. 54. Moreover, all air carriers affected by these changes had informally received identical notification of the changes about three weeks before that time, through distribution of a memorandum addressed to the chief accounting officers of all scheduled air carriers from the Director, Bureau of Air Operations. Since these changes will ease the burden of existing requirements and since immediate compliance with the new requirements will provide the Board promptly with information it needs for the proper performance of its responsibilities under the act, the Board urgently requests immediate compliance with the new requirements on a voluntary basis. After the effective date, compliance will, of course, be mandatory.

Interested persons have been afforded an opportunity to participate in the making of this rule and due consideration has been given to all relevant matters submitted and arguments presented.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations as follows, effective August 25, 1952:

1. By amending the list of schedules contained in Instruction No. 3 of § 241.7–1 *General instructions* so that the title of Schedule C shall read "Quarterly Flight and Traffic Statistics" and the frequency of filing shall be quarterly rather than monthly, and so that the title of Schedule C–1 shall read "Monthly Flight and Traffic Statistics".

[1] Forms filed as part of the original document.

2. By amending Instruction No. 4 of § 241.7–1 to read as follows:

4. In addition to the foregoing schedules, the carrier shall file for each of the first two months of each quarter an Interim Financial and Operating Report in accordance with the instructions for that report following Schedule F. under § 241.7–2.

3. By amending Instruction No. 5 under § 241.7–1 to read:

5. Monthly and quarterly flight and traffic statistics schedules shall reflect statistics for the respective calendar month, quarter, and twelve-months-to-date periods.

4. By inserting in Instruction No. 6 of § 241.7–1, after the first word "quarterly", the word "financial".

5. By amending the last sentence of Instruction No. 8 of § 241.7–1 to read: "Where separate reports are submitted in accordance with the above, an additional Schedule B shall be filed showing profit and loss for the 'system'. At the option of the carrier, additional Schedules C and C–1 may be filed for the 'system', presenting data covering 'All Services' only."

6. By amending Instruction No. 10 of § 241.7–1 to read:

10. Carrier reports shall be filed (i. e., postmarked) with the Civil Aeronautics Board on or before the expiration of the following number of days subsequent to the close of the periods for which reports are being made:

Schedule	*Postmarked within following number of days*
C and C–1	30
A, A–1 through A–6, B, B–1 through B–9	40
A–7 through A–10, B–10, D, E, F	90
Interim financial and operating reports	30

The time for submitting final schedules listed on the second line shall be extended to 90 days following the year's end with respect to the report for the final quarter of the carrier's fiscal year: *Provided,* That preliminary Schedules A and B (Balance Sheet and Statement of Profit and Loss, respectively) must be submitted within the 40-day filing period.

7. By changing the first "to" in line 10 of Instruction No. 11 of § 241.7–1 to read "of".

8. By amending Instruction No. 15 of § 241.7–1 to read:

15. Each reporting carrier shall, on Schedules B, B–1, B–2, B–3, C and C–1, signify the operations reported in accordance with the following classification:

Certificated U. S. mail carriers will use, as appropriate—

Trunk.	Alaskan.
Local Service.	Foreign or Overseas.
Territorial.	System.

Certificated non-U. S. mail carriers will use, as appropriate—

NM—All Cargo.
NM—Pass. and Prop.

9. By amending the first two paragraphs under the heading "Filing of IBM cards" in § 241.7–1 to read:

Those carriers to whom IBM facilities are available shall file with the Board, concurrently with the schedule to which they apply, one set of IBM cards, punched to reflect details in Schedules B (except the "system" Schedule B required under paragraph 8 above), B–2, B–3, B–4, B–5, C and C–1 as prescribed in the instructions for each schedule. The card to be used for this purpose is designated "CAB—Financial and Operating Statistics for Air Carriers." The codes to be used in card punching will be found at the end of the "Reporting Procedures' Section."

Where two amounts are reported on the same line of a schedule, such as in the quarterly and twelve-months-to-date columns, a separate card shall be provided to cover each amount. However, only one card should be submitted for an item regardless of the number of times such item may appear in the several schedules.

10. By amending the first sentence of the paragraph under the heading "IBM Tabulating Card" of Schedule B in § 241.7–2 *Schedules* to read: "An individual card shall be punched and submitted for each amount reported on each page of this schedule except that no cards will be required for items relating to the analysis of earned surplus or for the 'system' Schedule B of carriers with both domestic and foreign or overseas operations."

11. By adding after the present language of Schedule B–1 of § 241.7–2 an additional paragraph reading:

Income taxes: There shall be reported on this schedule a breakdown of the amounts shown on Schedule B in Account 9100, "Income Taxes", as between excess profits taxes and other taxes based on income.

12. By changing the phrase "Schedule C" in line 10 of the second paragraph under Schedule B–2 of § 241.7–2 to read: "Schedules C and C–1."

13. By inserting after the first sentence of the paragraph headed "Column 15" under Schedule B-5 of § 241.7–2 a sentence reading: "Fractional tons, expressed in decimals carried two places beyond the decimal point, shall be shown in reporting amounts in columns 13, 14 and 15."

14. By adding to the present language under the heading "IBM Tabulating Cards" of Schedule B-5 of § 241.7–2 a paragraph reading:

Card columns 40 through 49 shall be used for punching whole numbers. Columns 50 and 51 shall be used for punching cents and the fractional amounts of mail, express, and freight.

15. By giving Schedule C and Schedule C–1 of § 241.7–2 the following new headings: "Schedule C—Quarterly Flight and Traffic Statistics"; "Schedule C–1—Monthly Flight and Traffic Statistics."

16. By striking the first paragraph of Schedule C of § 241.7–2 and inserting three paragraphs to read:

Schedule C is designed for the reporting of flight and traffic statistics by primary and secondary classes of service and by types of aircraft for each calendar quarter.

Schedule C–1 is designed for the reporting of total flight and traffic statistics in all services and separately for scheduled and non-scheduled services with only a partial separation by aircraft type, and class of service.

The amounts reported in these schedules shall represent the total for both owned and rented aircraft, with no separation being required between the data for owned and rented units.

17. By amending the fifth and sixth paragraphs of Schedule C of § 241.7–2 to read:

The breakdown of flight and traffic statistics on Schedule C and to the extent required on Schedule C–1, shall be in accordance with the following classification of services:

Services (primary and secondary)	Abbreviation
Scheduled—Regular combination service	Sch. reg. comb.
Scheduled—Coach and tourist service	Sch. coach & tour.
Scheduled—All cargo service	Sch. all cargo
Scheduled—Total services	Total scheduled
Nonscheduled—Passenger or combination service	Nonsch. pass. or comb.
Nonscheduled—All cargo service	Nonsch. all cargo
Nonscheduled—Total services	Total nonscheduled
Exclusive nonrevenue	Excl. nonrev.
Total—All services	All services

The abbreviations indicated above shall be used to designate the services reported.

18. By adding the following aircraft type to the list in the seventh paragraph of Schedule C of § 241.7–2: "Martin 202–A".

19. By inserting over the heading "Scheduled Service" of Schedule C of § 241.7–2 a new heading to read: Schedule C—Quarterly Flight and Traffic Statistics."

20. By amending the last sentence of the first paragraph under the heading "Scheduled Service" of Schedule C of § 241.7–2 to read: "These data shall be further separated by primary and secondary classes of service."

21. By amending the last sentence of the first paragraph under the heading "Nonscheduled Service" of Schedule C of § 241.7–2 to read: "These data shall be further separated by primary and secondary classes of service."

22. By changing the line numbers in the fourth paragraph under the heading "Nonscheduled Service" of Schedule C of § 241.7–2 to read: "Lines 1 through 4, 18 through 21, 23 and 37".

23. By amending the second sentence of the second paragraph under "Reporting of revenue plane miles performed in off-line service" of Schedule C of § 241.7–2 to read: "The footnote should be placed on the sheet, or each sheet if more than one, of Schedule C on which are reported flight and traffic statistics for 'Total nonscheduled' service for the quarter in which the revenue plane miles flown in nonscheduled service exceed the specified percentage."

24. By amending the first two sentences under the heading "Numbering Pages" of Schedule C of § 241.7–2 to read:

Carriers whose operations are confined to domestic operations should use a single series in numbering the pages of Schedule C for example, page 1 of 15; carriers engaged in domestic and foreign and/or overseas operations should use separate series for each operation, for example:

(1) Trunk line, page 1 of 15.
(2) Foreign, page 1 of 13.

In numbering the pages of a series, the sheet applicable to "All Services" should be designated as page 1.

25. By inserting after the second paragraph under the heading "Numbering Pages" of Schedule C of § 241.7–2 a new heading and instructions to read:

SCHEDULE C–1—MONTHLY, FLIGHT AND TRAFFIC STATISTICS

Total flight and traffic statistics in all services, in scheduled service and in nonscheduled service shall be reported on separate pages of this schedule. The three pages shall be numbered in the foregoing order. The primary service covered by each page of this schedule shall be designated in the heading.

In those instances where a carrier performs only scheduled service, the flight and traffic statistics may be reported on a single sheet of this schedule. The words "Total scheduled" should be inserted in the heading opposite "Service" with a footnote indicating that the statistics are also "Total—All services."

The following lines are not applicable to and shall not be used for reporting information relating to nonscheduled service: 18 through 21, 23, 29, through 31, 41 through 43.

Revenue aircraft miles: The breakdown of revenue aircraft miles by types of aircraft and secondary classes of service shall be completed on the pages for scheduled and nonscheduled services only. No breakdown need be reported on the page for all services.

If the number of items to be reported under "Revenue Aircraft Miles" and "Average Revenue Hours of Use per Day per Aircraft" exceed the lines available on the form, the extra items shall be reported either (1) in the space at the bottom of the schedule or (2) on a supplemental sheet of the schedule.

Number of employees: These employee data shall be reported only on the page covering all services.

26. By inserting over the heading "Aircraft Miles" of Schedule C of § 241.7–2 a new heading to read: "Item Definitions and Instructions."

27. By amending the third sentence under Line 7 of Schedule C of § 241.7–2 to read: "Data for this line shall be reported only on the pages for 'All Services' and 'Nonscheduled' services."

28. By striking the heading "Passenger-Miles" of Schedule C of § 241.7–2 and inserting a new heading and instructions to read:

PASSENGER TRAFFIC

Line 11, Number of revenue passengers carried: This item shall be reported in total only on those pages covering "All Services," "Total Scheduled Services," and "Total Nonscheduled Services." The figures reported on line 11 shall represent an unduplicated count of revenue passengers for each operation for which separate reports are filed. Transfer passengers between separate operating units within each reporting unit shall be eliminated, but lay-over passengers shall be included. Those passengers transported at full published fares and also those carried at reduced fares shall be classified as revenue passengers, but infants carried at a small fraction of the regular fares shall not be so classified.

29. By changing the phrase "Schedule C" in the last two sentences under Line 17 of Schedule C of § 241.7–2 to read "Schedule C–1."

30. By changing the phrase "Schedule C" in the eighth line under line 29 of Schedule C of § 241.7–2 to read: "Schedule C–1."

31. By changing the phrase "Schedule C" in the sixth line under Line 30 of Schedule C of § 241.7–2 to read: "Schedule C–1."

32. By amending the first paragraph under the heading "Use of Aircraft" of Schedule C of § 241.7–2 to read:

"Aircraft days" is defined as the sum of the number of days that each aircraft owned by the reporting carrier and each aircraft rented, leased or borrowed from others is in the possession of the air carrier, including the number of days that any such aircraft is out of service due to periodic maintenance or major overhaul but excluding the number of days that each newly acquired aircraft is on hand before being placed in operation. Owned aircraft which are rented, leased or loaned to others shall not be considered as being in the possession of the reporting carrier during the period of such rental, lease or loan.

33. By amending the second sentence of paragraph (2) under the heading "Use of Aircraft" of Schedule C of § 241.7–2 to read: "The time of aircraft in maintenance or overhaul shall be distributed to domestic and international operations on the basis of the total hours flown by aircraft of the same type in the respective operations during the preceding month."

34. By amending the second paragraph under Line 32 of Schedule C of § 241.7–2 to read:

In connection with the data reported on line 32, the carrier shall show on the margin or in a statement attached to the appropriate page of Schedule C (1) for each newly acquired aircraft placed in operation during the current quarter, the license number and type of aircraft, the date acquired, and the date placed in operations; (2) for each owned aircraft retired during the quarter through sale, transfer, abandonment, etc., the license number and type of aircraft and the date retired; (3) by types of aircraft, the number of aircraft days included on line 32 for aircraft rented, leased or borrowed from others; and (4) by types of aircraft, the number of aircraft days excluded from line 32 for owned aircraft which have been rented, leased or loaned to others during all or any part of the current quarter. The data with respect to newly acquired aircraft placed in operation and owned aircraft retired shall be shown in the report for either the domestic or international operations, whichever appears appropriate for each such aircraft.

35. By amending the second sentence of the fourth paragraph under the heading "Number of Employees" of Schedule C of § 241.7–2 to read: "These employee data shall be reported in totals only on that page of Schedule C–1 relating to 'All Services'."

36. By striking the paragraphs (lines 11, 44, 45 and 46) under the heading "Miscellaneous" of Schedule C of § 241.7–2 and inserting two paragraphs to read:

Line 44, Tons of revenue express and freight carried: This item shall be reported in total only on those pages of Schedule C covering "All Services," "Total Scheduled Services," and "Total Nonscheduled Services."

Line 45, Aircraft engine fuel consumed (gallons);

Line 46, Aircraft engine oil consumed (gallons): These items shall be reported by types of aircraft and shall represent the gallons of fuel and oil consumed in revenue and nonrevenue flights. Fractional gallons shall not be shown.

37. By striking the first three paragraphs under the heading "IBM Tabulating Card" of Schedule C of § 241.7–2 and inserting five paragraphs to read:

An individual punched IBM card shall be submitted for each amount reported on lines coded 8 through 28, 40 and 45 on each page of Schedule C.

An individual punched IBM card shall be submitted for each amount reported on lines coded 8 through 28 on each page of Schedule C–1 including a card for each line under "Revenue Aircraft Miles" on which an amount is reported.

The following fields shall be used when punching the cards applying to Schedules C and C–1: 1, 2, 3, 4, 5, 8 or 11, 9, 13, 15.

The identification of the item punched on each card shall be made in the 13th field of the card using the code designation for the appropriate line on the schedule.

The decimals required as part of the percentages included on Schedules C and C–1 and the minutes included in "average revenue hours of use per day per aircraft" shall be punched in card columns 50 and 51. No other fractional amounts shall be punched for items on these schedules. Passenger-mile and available seat-mile data shall be punched in thousands.

38. By striking from § 241.7–2 the heading "Schedule C–1—Revenue Passenger-Miles" and the three paragraphs thereunder.

39. By striking from § 241.7–2 the heading "CAB Form 41 (a)—Interim Operating Statement and Selected Expenses" and the two paragraphs thereunder and inserting a new heading and paragraphs to read:

INSTRUCTIONS FOR INTERIM FINANCIAL AND OPERATING REPORT

For each of the first two months of each quarter, the carrier shall submit a report which may be a copy of the report prepared for its management, containing the following as a minimum:

1. Balance sheet as at the end of the month.
2. Statement of profit and loss for the month.

This statement should give a separation of revenues and expenses between domestic operations and foreign or overseas operations for carriers performing such operations and for which separate quarterly Schedule B reports are filed. Any provisions for excess profits tax included in the statement of profit and loss should also be identified.

The report shall be signed by an officer of the company, certifying that it is an accurate statement of the items reported as reflected in the accounts and records of the company.

40. By inserting under the heading "Codes for Punch Cards" of § 241.7–2 an additional item in the "Codes for 'type card' column one of IBM card" to read:

7 Items on schedule C–1.

41. By amending under the heading "Codes for Punch Cards" of § 241.7–2 the codes for "Certificated U. S. mail operations" to read:

10 Domestic trunk.
20 Domestic local service.
30 Domestic territorial (other than Alaskan).
40 Alaskan air carrier.
50 Foreign or overseas air carrier.

42. By inserting under the heading "Codes for Punch Cards" of § 241.7–2 additional items in numerical sequence under "Codes for 'Carrier' Columns 2.3 and 4 of IBM card" to read:

210 Christensen Air Service.
485 Midet Aviation Corporation.
510 New York Airways, Inc.

43. By inserting under the heading "Codes for Punch Cards" of § 241.7–2 additional items in numerical sequence under "Codes for 'Type Aircraft' Columns 9, 10 and 11 of IBM card" to read:

235 CV–340.
262 G–44.
282 202–A.

44. By striking from "Codes for 'Type Aircraft' Columns 9, 10 and 11 of IBM card" of § 241.7–2 code "272" and aircraft type number "14".

45. By inserting as the second word of the first sentence under "Codes for 'Station' Columns 12 through 15 of IBM card" of § 241.7–2 the word "numeric".

46. By amending the paragraph under "Codes for 'Traffic Line No.' Columns 33 and 34 of IBM card" of § 241.7–2 to read:

Each item required on Schedules C and C–1 of CAB Form 41 shall be identified in the card applicable thereto by punching in this field of the card the code as printed on the schedules for the line on which the item is reported.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interprets or applies sec. 407, 52 Stat. 1000; 49 U. S. C. 487)

By the Bureau of Air Operations.

[SEAL] GORDON M. BAIN,
Director.

[F. R. Doc. 52–8307; Filed, July 29, 1952; 8:46 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Rev. of Export Regs., Amdt. 5]

PART 384—GENERAL ORDERS

ORDER RELATING TO CERTAIN LICENSES FOR STEEL

Section 384.12 *Order relating to certain licenses for steel* is amended to read as follows:

§ 384.12 *Order relating to certain licenses for steel.* (a) Effective 12:01 a. m., e. d. t., July 29, 1952, exportations under validated licenses of all steel controlled materials in the forms and shapes specified in List I at the end of this section, may not be made where the steel forms and shapes to be exported were acquired on or after June 11, 1952, by the exporter from a steel distributor, as defined in NPA Order M–6A (or is being exported by such a steel distributor) and where they are to be used in the manufacture abroad of products identified in domestic programs by the DPA allotment symbol "V" followed by a digit as set forth in the NPA "Official CMP Class B Product List and Product Assignment Directory", issued May 1, 1952, by the National Production Authority of the Department of Commerce (section III, CMP Class B Product Class Codes—by the National Production Authority Divisions, pages 32A through 36A).

(b) For export shipments not prohibited by the terms of this order, exporters shall make the following certification on the shipper's export declaration covering the proposed exportation of all commodities identified by the Schedule B numbers in List II at the end of this section:

I certify to the Office of International Trade that, to the best of my knowledge and belief, this exportation is in accordance with the terms of OIT Order, § 384.12, as amended July 29, 1952.

(c) This order shall not apply to licenses bearing on OIT waiver of its requirements validated on the face of the license or on an amendment thereto after the effective date.

LIST I

Prohibited Exportations—Forms and Shapes

Carbon steel:
- Bar, hot-rolled (round, 1½ inches or larger).
- Bar, cold finished (round, 1½ inches or larger).
- Electrical sheet and strip (AISI–M17, M15, M14 and oriented).
- Tinplate, hot dipped.
- Tinplate, electrolytic.
- Structural shapes (wide-flanged sections, i. e., steel beams or columns having parallel face flanges rolled on a universal structural mill or Grey mill, in sizes ranging in depth from 4 to 36 inches).
- Pressure tubing—seamless and welded.
- Mechanical tubing—seamless.

LIST II

Alloy steel:
- Bar, hot-rolled (round, 1½ inches or larger).
- Bar, cold-finished (round, 1½ inches or larger).
- Pressure tubing—seamless and welded.
- Mechanical tubing—seamless.

Stainless steel (nickel bearing): All forms and shapes.

Applicable Schedule B Numbers

601201	602610	604530	608150
601702	602630	605230	608210
601708	602650	605430	609190
601810	603135	605530	610492
601910	603540	606010	610495
601950	603560	606030	617905
602010	603594	606110	618267
602050	603595	606130	618961
602090	603750	606270	618963
602210	603850	606280	618967
602310	604110	607410	618975
602350	604150	607430	619061
602500	604510	607500	619065

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR 1948 Supp.)

KARL L. ANDERSON,
Acting Director,
Office of International Trade.

[F. R. Doc. 52–8324; Filed, July 29, 1952; 8:47 a. m]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter F—Records and Procedure

PART 601—PROCEDURE

INFORMAL CONFERENCES

The Statement of Procedure contained in F. R. Doc. 46–15357 appearing at page 177A–34, Part II, section 1, of the issue for September 11, 1946, as amended (26 CFR, Part 601, 15 F. R. 6888), is hereby further amended as follows:

PARAGRAPH 1. Section 601.4 (d) *Conferences* is amended as follows:

(A) The first three sentences are designated as subparagraph (1).

(B) All that remains after the third sentence is designated as subparagraph (3) and the fourth sentence is amended to read as follows: "The rules governing conferences, with the exception of informal conferences, as described in subparagraph (2) of this paragraph, are set forth in 'Conference and Practice Requirements, Bureau of Internal Revenue, Revised February, 1942', published in the Internal Revenue Bulletin, 1942–1, page 384."

(C) A new subparagraph (2) is added after subparagraph (1) to read as follows:

(2) Procedure for informal conferences under Reorganization Plan No. 1 of 1952 is provided for in IR–Mim. No. 6, Reo. No. 6, Aud. No. 2, of May 15, 1952, reading as follows:

1. *Purpose.* The purpose of this mimeograph is to describe informal conference procedure which will be applicable in the office of the Director of Internal Revenue on and after the date Reorganization Plan No. 1 of 1952 is put into effect in each District.

2. *Objectives of informal conference procedure.* The objective of the informal conference procedure is to give taxpayers greater opportunity to reach an early agreement with respect to disputed items arising from examinations made by internal revenue agents through the use of an informal procedure by means of which such issues may be resolved prior to the preparation of the internal revenue agent's final report. Through this means, the disposition of disputed cases will be brought closer to the taxpayer, improved coordination and supervision of the activities of field examiners will be achieved, and the closing of cases by agreement without the necessity of the taxpayer filing a formal protest will be increased.

3. *Organization of field groups.* The original examination of income, profits, estate, gift, excise, and employment tax liability will be the primary function of internal revenue agents assigned as examining officers in the audit branch of the office of each Director of Internal Revenue. Such internal revenue agents will be organized in groups, each of which will be under the immediate supervision of a group chief, designated by the Director. The present groups will be reduced in size and additional groups created so that, in addition to his general supervisory responsibilities, each group chief may act in the capacity of conferee in conformity with the informal conference procedure described in this mimeograph.

4. *Examination procedure.* At the conclusion of his examination, the internal revenue agent will discuss his findings with the taxpayer and will afford the taxpayer an opportunity to agree and to execute Form 870, or other appropriate agreement form. In the event that the taxpayer does not agree, or does not wish to execute an agreement form, the internal revenue agent will inform the taxpayer of his right to an informal conference. The examining officer then will furnish the taxpayer a brief statement identifying the proposed adjustments, substantially similar to the Exhibit A attached, as the basis for requesting an informal conference, if desired. Exhibit A reads as follows:

EXHIBIT A

REVENUE AGENT'S PROPOSED ADJUSTMENTS AFFECTING TAX LIABILITY

Name _____

At the time the proposed adjustments affecting your tax liability were discussed you did not agree to the items marked (*) listed below.

You are advised that you may present your objections to the proposed changes at an informal conference which may be requested within the next 10 days by telephoning or writing to the address set out below:

Group Chief _____ Telephone No. _____
Ext. _____ Address _____

If you decide to accept the findings as set out below, please advise. If no informal conference is requested, an examination report will be mailed to you by the Director of Internal Revenue.

Year ending _____
Net income per return _____ $_____
Proposed unallowable deductions and additional income:
(a)_____ $_____
( )_____ _____
( )_____ _____
Total _____ _____
Proposed nontaxable income and additional deductions:
( )_____ $_____
( )_____ _____
Proposed corrected net income___ $_____
Other proposed adjustments affecting tax liability:
( )_____

_____
Internal Revenue Agent

_____
Date

A copy will be furnished promptly to the group chief. Such informal conference will be conducted by the group chief, or by such other qualified employee as may be designated, with the examining officer present, and will afford the taxpayer an opportunity to discuss orally the proposed adjustments.

5. *Attorneys and agents.* If the taxpayer does not attend the conference but is represented by an attorney or agent, the rules with respect to their recognition, the filing of powers of attorney, and the filing of fee statements will be applicable.

6. *Reports and review.* A simple, short, informal conference report will be prepared by the group chief, or other designated officer, with respect to each case on which an informal conference was held. Such conference report will show the date of the conference, the names and titles of the persons present, and will set forth briefly and concisely the facts and the conclusions reached with respect to each issue. The conference report will then be given to the examining officer who will, in preparing the examination report, give effect to the conference decisions. The examination report, the conference report, and all other data relating to the case will be subjected to review in order that uniformity in the application of the provisions of the Internal Revenue Code, the regulations and rulings, as well as general Bureau policy, may be assured.

7. *Duties of conferee.* In the conduct of informal conferences it will be the duty of the group chief, or other officer who may be acting as conferee, to conduct the conference in accordance with the objectives of the informal conference procedure and to:

(a) Provide the taxpayer a fair and courteous hearing at which he may present his statement of the facts and his view on the issues;

(b) Make certain that all pertinent facts are included in the record and are considered in arriving at the proposed recommendation;

(c) Make certain that the appropriate provisions of the Internal Revenue Code are applied in arriving at the proposed recommendation;

(d) Make certain that the proposed recommendation is in accord with Bureau interpretations as expressed in regulations and rulings; and

(e) Explain fully to the taxpayer the conclusions reached and the reasons therefor.

8. *Procedure after conference.* In the event that an agreement is reached at the informal conference, the case will be processed in accordance with established procedure. In the event that the taxpayer does not agree with the decision reached at the informal conference, the examination report will be prepared and a copy furnished the taxpayer, together with a 30-day letter affording the taxpayer the privilege of filing a formal protest, under oath, with the Director of Internal Revenue. Such 30-day letter also will afford the taxpayer an opportunity to agree to the proposed determination. If no such protest or agreement is received by the Director within the 30-day period, the case will be processed for issuance of the statutory notice of deficiency, or other appropriate action. If a timely protest is received, the case will be transmitted to the Appellate Division.

9. *Definitions.* (a) The term "income, profits, estate, and gift tax," as used in this mimeograph, will be construed to include any tax over which The Tax Court of the United States has jurisdiction.

(b) The term "excise tax," as used in this mimeograph, will be construed to include any Federal excise tax, except: (1) Any tax imposed by Chapter 8, 9, 15, 23, 26, or 27A; (2) any tax imposed by Subchapter B of Chapter 25; (3) any tax imposed by Part V, Part VI, Part VII, or Part VIII of Subchapter A of Chapter 27; and (4) any tax imposed by Subchapter B of Chapter 28, insofar as it relates to liquor and tobacco.

(c) The term "employment tax," as used in this mimeograph, will be construed to include any tax imposed by Chapter 9.

10. *Jeopardy, fraud, and other special cases.* Nothing contained in this mimeograph shall be construed to preclude the taking of appropriate action where the assessment or the collection of the tax is in jeopardy. The procedure described in this mimeograph will not apply in any case in which criminal prosecution is under consideration or in any case in which, in the discretion of the Director of Internal Revenue, the Government's interest would be prejudiced thereby.

11. *Prior instructions superseded.* The instructions contained in this mimeograph supersede prior instructions to the extent that such prior instructions are inconsistent herewith.

(R. S. 161; 5 U. S. C. 22)

[SEAL] NORMAN A. SUGARMAN,
Acting Commissioner of Internal Revenue.

[F. R. Doc. 52-8343; Filed, July 29, 1952; 8:51 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

Subchapter E—Mechanical Equipment for Mines; Tests for Permissibility; Fees

PART 33—DUST COLLECTORS FOR USE IN CONNECTION WITH ROCK DRILLING IN COAL MINES

MISCELLANEOUS AMENDMENTS

The Bureau of Mines has determined that certain phases of the testing schedule set forth in Part 33 serve no useful purpose in determining whether dust collecting equipment may be approved for use in coal mines. Accordingly, the following amendments delete from the

schedule the requirements and conditions relating to drilling in hard strata such as sandstone as part of the approval test of dust collectors for use in connection with rock drilling in coal mines.

Since these amendments serve to decrease instead of increase the present requirements, it is determined that the notices and procedures prescribed by section 4 of the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1003) are impracticable, unnecessary, and the rules and regulations shall become effective as of the date of filing in the FEDERAL REGISTER.

Part 33, of Title 30, Code of Federal Regulations heretofore promulgated (17 F. R. 1120), is amended as follows:

1. Section 33.6 (f) (1) is amended to read as follows:

(1) *Roof drilling.* Units designed for use with both percussion and rotary drills shall be tested with both types of drills; otherwise tests shall be confined to the type of drill for which the unit is designed.

Percussion and rotary drilling shall be done in friable strata that tend to produce large scale-like cuttings, as exemplified by the roof of the Bureau of Mines Experimental Mine, Bruceton, Pennsylvania.

2. Section 33.6 (f) (1) (i) is amended to read as follows:

(i) With units under consideration for approval for use in connection with drilling vertical roof holes only, holes shall be drilled as follows:

10 holes with pneumatic percussion drill.
10 holes with electric rotary drill.

3. Section 33.6 (f) (1) (iii) is amended to read as follows:

(iii) With units under consideration for use in connection with drilling through holes in steel shapes, channels 4 inches across the web shall be used (unless other shapes or sizes are designated in the application for approval) and holes shall be drilled as follows:

5 holes vertically, and 5 holes at an angle, with pneumatic percussion drill.
5 holes vertically, and 5 holes at an angle, with electric rotary drill.

(Sec. 5, 36 Stat. 370, as amended; 30 U. S. C. 7)

MASTIN G. WHITE,
Acting Secretary of the Interior.

JULY 23, 1952.

[F. R. Doc. 52-8294; Filed, July 29, 1952; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 132, Amdt. 1]

CPR 132—SOUTHERN HARDWOOD AND YELLOW CYPRESS LUMBER

ESTABLISHED WEIGHTS FOR GREEN LUMBER

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 1 to Ceiling Price Regulation 132 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment establishes weights for green lumber for use in computing ceiling delivered prices under section 6.2. The regulation as originally issued provided established weights for air-dried lumber only. Since the regulation was issued, a number of requests have been received showing the need for established green weights. This amendment meets the need for such weights.

The weights shown are the weights commonly accepted in the industry. They are based on the weights shown in the "Rules for the Measurement and Inspection of Hardwood Lumber, Cypress, Veneers and Thin Lumber", effective January 1, 1952, published by the National Hardwood Lumber Association, which have been adjusted to allow for the untrimmed and unedged cuttings of circular sawmills.

In the formulation of this amendment, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act.

AMENDATORY PROVISIONS

Ceiling Price Regulation 132 is hereby amended in the following respect:

A new section, 3.12, is added to article III, immediately following section 3.11, to read as follows:

SEC. 3.12 *Established weights for green lumber.* The established weights per thousand feet for green lumber covered by this regulation, for use in computing transportation additions under section 6.2, are as follows:

ESTABLISHED GREEN LUMBER WEIGHTS

[Pounds per 1,000 feet]

Species	Thickness (inch)									
	1/2	5/8	3/4	4/4	5/4	6/4	8/4	10/4	12/4	16/4
Tough ash	------	3,500	4,200	5,600	5,600	5,700	5,800	5,800	6,000	6,000
Cabinet ash (other than tough ash)	------	3,000	--------	4,900	4,900	5,000	5,200	5,200	5,300	------
Basswood	------	-------	-------	4,800	5,000	5,000	5,200	5,200	--------	------
Beech	------	3,800	4,400	5,800	6,000	6,100	6,300	--------	--------	------
Birch	------	-------	-------	6,000	-------	-------	-------	--------	--------	------
Cherry	------	-------	-------	5,200	5,200	5,400	5,500	5,500	5,600	5,600
Cottonwood	------	-------	-------	4,900	4,900	5,100	5,200	--------	--------	------
Soft elm	------	3,300	4,100	5,100	5,300	5,400	5,700	5,900	6,000	------
Hard elm	------	-------	-------	5,700	5,800	5,900	6,100	--------	--------	------
Black gum—plain	------	3,300	4,100	5,100	5,300	5,400	5,700	--------	--------	------
Black gum—quartered	------	-------	-------	5,100	5,300	5,400	5,700	5,900	6,000	------
Red gum—plain	------	-------	-------	5,700	5,800	6,000	6,300	--------	--------	------
Red gum—quartered	------	-------	-------	5,600	5,800	6,000	6,300	6,400	6,600	------
Red gum—figured	------	-------	-------	5,600	5,800	6,000	6,200	6,400	6,600	------
Sap gum—plain	------	3,400	4,200	5,300	5,500	5,600	5,900	--------	--------	------
Sap gum—quartered	------	-------	-------	5,300	5,500	5,600	5,900	6,100	6,200	------
Hackberry	------	3,500	-------	4,900	5,000	5,100	5,300	5,400	5,600	------
Hickory	------	-------	-------	6,200	6,400	6,500	6,800	6,900	7,000	------
Locust	------	3,200	4,000	5,200	5,400	5,500	5,800	--------	--------	------
Magnolia	------	3,100	3,800	4,800	5,000	5,100	5,400	5,600	5,700	5,700
Soft maple—WHAD	------	3,600	4,400	5,500	5,700	5,900	6,200	6,400	6,600	------
Soft maple—WHND	------	-------	-------	5,500	5,700	5,900	6,200	6,400	6,600	------
Red oak—plain	------	4,000	4,900	6,300	6,400	6,600	6,900	7,000	7,100	7,100
Red oak—quartered	------	-------	-------	6,400	6,600	6,700	7,000	--------	--------	------
White oak—plain	------	4,100	5,000	6,500	6,600	6,800	7,000	7,200	7,400	7,400
White oak—quartered	------	4,300	5,100	6,600	6,800	6,900	7,200	--------	--------	------
Pecan	------	-------	-------	6,400	6,600	6,700	7,000	7,100	7,200	------
Poplar—plain	------	2,900	3,600	4,500	4,700	4,800	5,100	5,200	5,300	------
Poplar—quartered	------	-------	-------	4,500	4,700	4,800	5,100	--------	--------	------
Sycamore—plain	2,500	3,100	3,800	4,800	4,900	5,100	5,400	--------	--------	------
Sycamore—quartered	------	3,200	3,900	4,900	5,100	5,200	5,500	--------	--------	------
Tupelo—plain	------	3,300	4,000	5,100	5,200	5,400	5,700	--------	--------	------
Tupelo—quartered	------	-------	-------	5,100	5,200	5,400	5,700	5,800	6,000	------
Willow	------	-------	3,700	4,600	4,600	4,800	5,000	--------	--------	------
Yellow cypress	------	-------	-------	5,700	5,800	5,800	6,000	6,600	6,600	6,600

(Sec. 704, 64 Stat. 816, amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective August 2, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8408; Filed, July 29, 1952; 10:57 a. m.]

[Ceiling Price Regulation 135, Amdt. 1 to Supplementary Regulation 1]

CPR 135, SR 1—SALES OF BAKERY ITEMS TO EATING AND DRINKING ESTABLISHMENTS LOCATED IN THE METROPOLITAN NEW YORK AREA

ESSEX COUNTY

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 1 to Supplementary Regulation 1 to Ceiling Price Regulation 135, is hereby issued.

STATEMENT OF CONSIDERATIONS

Data received by this office subsequent to the issuance of CPR 135, SR 1, indicates that Essex County in New Jersey is part of the Metropolitan New York Area insofar as sales by New York restaurant

bakers are concerned. Accordingly, the definition of the Metropolitan New York Area has been amended to include this county.

In the Director's judgment the provisions of this amendment are consistent with the purposes of Title IV of the Defense Production Act of 1950, as amended, and comply with all the applicable provisions of that act.

In view of the corrective nature of this Amendment, special circumstances have rendered consultation with industry representatives, including trade associations, impracticable.

AMENDATORY PROVISIONS

Paragraph (c) of section I of Ceiling Price Regulation 135, Supplementary Regulation 1 is amended by adding Essex County in the State of New Jersey to the counties included within the Metropolitan New York Area. As amended, paragraph (c) of section 1 reads as follows:

(c) "Metropolitan New York Area" means the following counties in the State of New York: New York, Kings, Queens, Bronx, Richmond, Rockland, Westchester, Suffolk and Nassau; and the following counties in the State of New Jersey: Bergen, Essex, Hudson, Union, and Passaic.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective July 29, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8409; Filed, July 29, 1952; 10:57 a. m.]

[Ceiling Price Regulation 74, Amdt. 11]

CPR 74—CEILING PRICE OF PORK SOLD AT WHOLESALE

ADJUSTED PARITY PRICES, PROCESSING STAGES, AND MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, Economic Stabilization Agency General Order 2, this Amendment to Ceiling Price Regulation 74 is hereby issued.

STATEMENT OF CONSIDERATIONS

The accompanying amendment to Ceiling Price Regulation 74 (CPR) makes several substantive changes.

This amendment increases the ceiling prices of certain pork products in compliance with the provisions of section 402 (d) (3) of the Defense Production Act of 1950, as amended.

The Secretary of Agriculture has determined that, during the months of July, August, September, and October, the parity price for hogs shall be adjusted to a level in excess of 100 percent of parity. Data available to the Office of Price Stabilization indicate that with hog prices at or slightly in excess of parity, processors of hogs would have generally fair and equitable margins under the industry earnings standard. While these data are not complete, they also indicate that were the processors to pay the seasonally adjusted parity prices for hogs over an extended period of time, the processing industry's earnings would be below the earnings standard. It appears that processors would be unable to pay producers these seasonally adjusted hog prices for any substantial period of time without reducing their margins below fair and equitable levels. Accordingly, during these four months, in order to permit processors to realize equitable margins while permitting them to pay producers of hogs seasonally adjusted parity prices as required by the Act, this amendment raises the ceiling prices of pork products. The higher ceiling prices provided in this amendment not only reflect seasonally adjusted parity but also reflect a sufficiently high corn-hog ratio to encourage increased hog production.

After October, when the seasonal adjustments in excess of 100 percent of parity terminate, the prices established in this regulation will be again revised to reflect the then effective legal requirements of the Act.

The ceilings of only certain pork products have been raised by this amendment. These products are the ones which in an uncontrolled economy normally increase in price during these four months. In general they are the leaner cuts which require comparatively less preparation and for which the housewife has customarily paid a premium during the warm weather months. In selection of these cuts the Office of Price Stabilization has been governed by historic seasonal price trends and has made such modifications as have seemed appropriate following consultation with industry representatives.

Schedule I of section 20 has been amended so as to permit the sale of certain wholesale pork cuts heretofore not listed in the schedule, as well as to include ceiling prices for additional processing stages of certain wholesale pork cuts. Specifically, the column headings, "Smoked", "Ready to eat", and "cooked (not in molds under pressure)" have been changed to be more descriptive of the actual processing steps to which each column of prices refers. A new column of prices, headed "Browned—Not cured [may be precooked (in molds under pressure) or (not in molds under pressure)]", has been added to Schedule I of section 20.

Boneless and fatted fresh hams and boneless fresh loins (Canadian Style) have customarily been browned by processors prior to sale. Inasmuch as numerous applications have been received under section 5 of CPR 74 (specialty pork products), the Director of Price Stabilization has deemed it advisable to establish a specific dollars-and-cents ceiling price for these items. For the same reasons, ceiling prices for cured bellies—square cut, seedless and derined, barbecue ribs—over 3 pounds, fresh hog faces, and cured and smoked hog jaws have been added.

Furthermore, section 20 has been amended to permit the sale of fresh hams, long cut, bone-in to processors of dried hams in addition to processors of aged, dry cured hams, and weight classifications over 16 pounds have been specified as follows: less than 16, 16–20, 20–28, and over 28 pounds.

A new cut, Hams, bone-in, skinless and fatted, has been added to Schedule I.

Prices for bellies, square cut and seedless with spare ribs in, which are sold cured or cured and smoked, have also been added to Schedule I. Heretofore, prices were provided only for bellies without the spare ribs, which had been cured or cured and smoked. Removal of the spareribs, however, does not always leave a square cut, seedless belly of sufficient thickness to be saleable. Accordingly, the additional prices have been added for other processing stages of the belly with the spareribs in.

A new section 54 has been added which provides that slaughterers may take an addition of $1.20 per cwt. on sales of pork products to purveyors of meals. Sales of pork to purveyors of meals entail greater expense and customarily have been made at higher prices than have been charged other buyers. In recognition of these facts, Ceiling Price Regulation 74 has previously provided for additions by wholesalers and non-slaughtering processors on sales to purveyors of meals. Slaughterers now may take an addition of $1.20 per cwt. on such sales. However, if the pork products are sold to purveyors of meals by company-owned peddler trucks, this new addition may not be taken as the regulation already provides for additions in these situations. In order to maintain normal profit margin differentials, the additions for sales by wholesalers and non-slaughtering processors to purveyors of meals have been increased $1.20 per cwt.

In formulating this amendment, the Director of Price Stabilization has consulted so far as practicable with industry representatives, including trade association representatives, and has given full consideration to their recommendations. In his judgment the provisions of this amendment are generally fair and equitable, are necessary to effectuate the purposes of Title IV of the Defense Producton Act of 1950, as amended, and comply with all the applicable standards of the Act.

All standards prescribed in this amendment were, prior to the issuance of Ceiling Price Regulation 74, in general use in the meat industry. Such standards as are prescribed are indispensable to price control of pork, since no practicable alternative to such standardization exists for securing effective price control of this commodity. It is not believed that this amendment will cause any substantial changes in business practices, cost practices or methods, or means or aids to distribution; however, to the extent that such changes may be compelled, they are necessary to prevent circumvention or evasion of Ceiling Price Regulation 74, as amended.

AMENDATORY PROVISIONS

Ceiling Price Regulation 74 is amended in the following respects:

1. Section 20 is amended to read as follows:

SEC. 20. *Schedule I—Wholesale pork cuts: Fresh or frozen, cured, cured and smoked, cured and smoked—ready-to-eat, cured and smoked—cooked (not in molds under pressure), and browned (not cured).*

[All prices are on a dollar per cwt. loose basis; the price for any fraction of a cwt. shall be reduced proportionately. Weights are by range and not by average]

Item	Fresh or frozen		Cured		Cured and smoked		Cured and smoked, ready-to-eat		Cured and smoked, cooked (not in molds under pressure)		Browned—not cured [may be precooked (in molds under pressure) or (not in molds under pressure)]	
	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price
1. Hams—Regular, bone in	16 down	$47.40	16 down	$46.40	16 down	$54.40	16 down	$56.60	14 down	$59.90		
	16 to 20	45.70	16 to 20	44.70	16 to 20	52.40	16 to 20	54.60	14 to 16	57.80		
	20 to 28	44.00	20 to 28	43.00	20 to 28	50.90	20 to 28	53.10	16 to 26	56.10		
	Over 28	40.50	Over 28	39.50	Over 28	47.20	Over 28	49.10	Over 26	52.00		
2. Hams—Long cut, bone in (may be sold only to be "aged, dry cured" or to be dried).	16 down	46.40										
	16 to 20	44.70										
	20 to 28	43.00										
	Over 28	39.50										
3. Hams—Skinned, bone in	14 down	54.00	14 down	53.00	14 down	61.00	14 down	63.60	14 down	67.30		
	14 to 18	52.00	14 to 18	51.00	14 to 18	58.80	14 to 18	61.20	14 to 18	64.80		
	18 to 25	50.00	18 to 25	49.00	18 to 25	56.80	18 to 25	59.10	18 to 25	62.60		
	Over 25	46.00	Over 25	45.00	Over 25	52.70	Over 25	54.90	Over 25	58.10		
(i) Hams—Bone in, skinless and fatted.	12 down	62.20	12 down	61.20	12 down	70.90	11 down	75.20	10 down	82.50		
	12 to 16	60.40	12 to 16	59.40	12 to 16	68.80	11 to 13	73.00	10 to 12	80.10		
	16 to 22	58.60	16 to 22	57.60	16 to 22	67.00	13 to 19	71.10	12 to 18	78.00		
	Over 22	54.30	Over 22	53.30	Over 22	62.70	Over 19	66.50	Over 18	73.00		
4. Hams—Regular, boneless	14 down	53.70	14 down	52.70	14 down	61.80	14 down	64.30	14 down	67.90		
	14 to 18	51.70	14 to 18	50.70	14 to 18	59.50	14 to 18	61.90	14 to 18	65.40		
5. Hams—Skinned, boneless	12 down	62.10	12 down	61.10	12 down	70.30	12 down	73.10	12 down	77.30		
	12 to 16	59.70	12 to 16	58.70	12 to 16	67.60	12 to 16	70.40	12 to 16	74.40		
	16 to 22	57.20	16 to 22	56.20	16 to 22	65.10	16 to 22	67.70	16 to 22	71.60		
	Over 22	52.70	Over 22	51.70	Over 22	60.50	Over 22	63.00	Over 22	66.60		
6. Hams—Regular, boneless and fatted.	10 down	66.00	10 down	65.00	10 down	74.70	10 down	78.50	10 down	86.50		
	10 to 14	63.30	10 to 14	62.30	10 to 14	71.80	10 to 12	75.40	10 to 12	83.00		
7. Hams—Skinless, boneless and fatted.	10 down	72.60	10 down	71.60	10 down	81.40	10 down	87.20	10 down	95.80	8 down	$114.00
	10 to 14	70.10	10 to 14	69.10	10 to 14	78.60	10 to 12	84.30	10 to 12	92.50	8 to 10	110.40
	14 to 18	67.60	14 to 18	66.60	14 to 18	76.10	12 to 16	81.60	12 to 16	89.60	10 to 14	100.90
	Over 18	62.40	Over 18	61.40	Over 18	70.90	Over 16	75.90	Over 16	83.40	Over 14	99.60
(i) Split ham, skinless boneless and fatted.	2 pounds up	63.90	2 pounds up	62.90	2 pounds up	72.40	1½ pounds up	77.40	1½ pounds up	84.90		
8. Boston butts	8 down	46.50	8 down	46.00	8 down	54.60	8 down	56.10				
	Over 8	44.00	Over 8	43.50	Over 8	52.00	Over 8	53.40				
9. Bellies—Square cut and seedless.	9 down	39.50	9 down	41.00	8 down	52.40						
	9 to 15	37.50	9 to 15	39.00	8 to 14	49.50						
	15 to 17	32.00	15 to 17	33.50	14 to 16	42.90						
	17 to 22	30.00	17 to 22	31.50	16 to 20	40.00						
10. Bellies—Square cut and seedless with sparerib in.	22 down	34.20	22 down	35.70	20 down	45.50						
11. Bellies—Square cut, seedless and derined.			9 down	43.80	8 down	56.10						
			9 to 15	41.60	8 to 14	53.00						
			15 to 17	35.70	14 to 16	45.80						
			17 to 22	33.30	16 to 20	42.50						
12. Loins—Regular	12 down	59.00	12 down	60.00	12 down	71.60						
	12 to 16	58.00	12 to 16	59.00	12 to 16	70.30						
	16 to 20	55.00	16 to 20	56.00	16 to 18	66.90						
	Over 20	50.00	Over 20	51.00	Over 18	61.40						
(i) Loins—Regular (skin on).	12 down	54.00	12 down	55.00	12 down	66.40						
	12 to 16	53.00	12 to 16	54.00	12 to 16	65.10						
(ii) Loins—Center cut	7½ down	69.40	7½ down	70.40	7½ down	82.60						
	7½ to 10½	67.50	7½ to 10½	68.50	7½ to 10½	80.30						
	10½ to 13	63.00	10½ to 13	64.00	10½ to 13	75.30						
(iii) Shoulder end of loin	All weights	41.00	All weights	42.00	All weights	52.20						
(iv) Ham end of loin	All weights	45.20	All weights	46.20	All weights	56.60						
13. Picnics—Regular, bone in	8 down	34.50	8 down	34.00	8 down	42.10	8 down	43.80	6 down	45.70		
	Over 8	32.00	Over 8	31.50	Over 8	39.60	Over 8	41.20	Over 6	43.00		
14. Picnics—Boneless	6 down	41.30	6 down	40.80	6 down	49.00	6 down	51.10	6 down	53.30		
	Over 6	38.40	Over 6	37.90	Over 6	46.10	Over 6	48.00	Over 6	50.10		
15. Picnics—Boneless, skinless, and fatted.	6 down	50.40	6 down	49.90	6 down	58.90	6 down	61.90	6 down	66.70		
	Over 6	46.60	Over 6	46.10	Over 6	54.90	Over 6	57.80	Over 6	62.30		
16. Shoulders—Skinned, neckbone out.	16 down	39.00	16 down	38.50	16 down	46.90			14 down	50.70		
	Over 16	36.50	Over 16	36.00	Over 16	44.30			Over 14	48.00		
(i) Shoulders—Skinned, neckbone in.	16 down	36.70	16 down	36.20	16 down	44.50						
	Over 16	34.50	Over 16	34.00	Over 16	42.30						
17. Shoulders—Skinned, boneless	14 down	44.00	14 down	43.50	14 down	52.70			12 down	59.20		
	Over 14	41.20	Over 14	40.70	Over 14	49.80			Over 12	55.90		
18. Shoulders—Boneless, skinless and fatted.	12 down	49.00	12 down	48.50	12 down	59.00			12 down	65.10		
	Over 12	45.90	Over 12	45.40	Over 12	55.70			Over 12	61.60		
19. Shoulders—Regular, neckbone out.	16 down	35.60	16 down	35.10	16 down	43.40						
	Over 16	33.30	Over 16	32.80	Over 16	41.10						
20. Shoulders—Rough, neckbone in.	16 down	32.90	16 down	32.40	16 down	40.60						
	Over 16	30.90	Over 16	30.40	Over 16	38.60						
21. Shoulders—Rough, neckbone out.	16 down	33.70	16 down	33.20	16 down	41.50						
	Over 16	31.60	Over 16	31.10	Over 16	39.30						
22. Shoulders—Long cut (may be sold only to be aged, dry cured, or dried).	All weights	33.00										
23. Butts—Boneless	3 down	62.10	3 down	62.60	3 down	78.40	3 down	81.00				
	Over 3	56.30	Over 3	56.80	Over 3	72.00	Over 3	74.40				
24. Loins—Boneless (Canadian style) (may not be sold to retailers in fresh or frozen form).	All weights	98.70	All weights	100.20	All weights	125.10			All weights	128.40	All weights	140.70
25. Loins—Boneless, regular cap or tail on.	All weights	92.20	All weights	93.70								
26. Briskets	All weights	24.10	All weights	25.10	All weights	31.10						
27. Fat backs	Under 12	13.70	Under 12	14.50	Under 12	17.50						
	12 to 16	14.70	12 to 16	15.50	12 to 16	18.50						
	Over 16	15.70	Over 16	16.50	Over 16	19.70						
28. Fat back ends or squares	All weights	13.70	All weights	14.50	All weights	17.50						

[All prices are on a dollar per cwt. loose basis; the price for any fraction of a cwt. shall be reduced proportionately. Weights are by range and not by average]

Item	Fresh or frozen		Cured		Cured and smoked		Cured and smoked, ready-to-eat		Cured and smoked, cooked (not in molds under pressure)		Browned—not cured [may be precooked (in molds under pressure) or (not in molds under pressure)]	
	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price	Weight range (pounds)	Price
29. Bellies or belly squares, dry, salt trim (clear or rib).	All weights	$27.00	All weights	$23.00	All weights	$32.20						
30. Plates, jowls and faces:												
Clear plates	All weights	13.70	All weights	14.50	All weights	17.50						
Regular plates		18.00		18.80		22.20						
Jowl butts		14.50		15.30		19.70						
Jowl butts, skinless		16.30										
Square jowl butts		16.50		17.50		24.10						
Hog jaws (also known as rough jowls).		14.00		14.50		22.20						
Hog faces		14.00										
31. Spare ribs	3 down	48.00	3 down	48.50	3 down	56.70						
	Over 3	45.00	Over 3	45.50	Over 3	53.40						
32. Barbecue ribs	3 down	57.00	3 down	57.50	3 down	66.50						
	Over 3	53.10	Over 3	53.60	Over 3	62.20						
33. Loin ribs	All weights	64.70	All weights	65.20	All weights	74.00						
34. Sparerib brisket bones	All weights	14.00	All weights	14.50	All weights	19.70						

SPECIAL ADJUSTMENT

If any wholesale pork cut listed above is not cut or trimmed in accordance with the specifications prescribed in Appendix 2, you must deduct $2.00 per cwt. from the prices listed above for any such improperly cut or trimmed fresh or frozen cut and $2.50 per cwt. from the prices listed above for any such improperly cut or trimmed cured or processed cut.

2. Section 21 is amended to read as follows:

SEC. 21. *Schedule II—Wholesale pork cuts: Sliced bacon, derind, packed in shipping containers.*

[All prices are on a dollars per cwt. packed basis; the price for a fraction of a cwt. shall be reduced proportionately]

	Packed in containers 30 pounds or less	
	½-pound package	1-pound package
1. Parchment wrapped:		
(i) Grade A	$62.50	$61.80
(ii) Grade B	53.60	52.90
(iii) Grade C	49.10	48.40
2. Rolls in cellophane or other transparent material:		
(i) Grade A	63.00	62.00
(ii) Grade B	54.10	53.10
(iii) Grade C	49.60	48.60
3. Closed carton; or cardboard wrapped in cellophane or other transparent material:		
(i) Grade A	64.50	63.30
(ii) Grade B	55.60	54.40
(iii) Grade C	51.10	49.90
4. Any package listed above:		
(i) Hotel	65.70	65.10
(ii) Grade D	35.70	34.70
(iii) Canadian style:		
Smoked	139.60	138.40
Cooked	143.20	142.00
(iv) Jowl butts	30.90	29.90
(v) Boneless regular plates	34.80	33.80

[All prices are on a dollars per cwt. packed basis; the price for a fraction of a cwt. shall be reduced proportionately]

	Packed in containers 30 pounds or less
5. Platter or bulk layers:	
(i) Hotel	$64.20
(ii) Grade A	61.00
(iii) Grade B	52.10
(iv) Grade C	47.60
(v) Grade D	33.70
6. Bacon ends:	
(i) Packages 2 pounds or less	22.70
(ii) Loose in carton or packages over 2 pounds	22.10

SPECIAL ADJUSTMENTS

Each of the above prices includes wrapping and packaging allowances and you may not add to the prices listed above any addition specified in section 51 or 52.

If any of the above items is packaged in a shipping container containing more than 30 pounds, the price listed above for each such item shall be reduced $0.50 per cwt.

3. Section 22 is amended to read as follows:

SEC. 22. *Schedule III—Wholesale pork cuts: Cured and cooked, cured, smoked and cooked, and browned.*

[All prices are on a dollars per cwt. loose basis; the price for any fraction of a cwt. shall be reduced proportionately. Weights are by range and not by average. Cooked items in this schedule must be cooked in molds under pressure]

	Weight range (pounds)	Price		
		Cured and cooked	Cured, smoked and cooked	Browned
1. Hams—Regular, boneless and fatted.	10 down	$83.70	$90.80	$93.00
	Over 10	85.20	87.20	89.20
2. Hams—Skinless, boneless and fatted.	10 down	97.00	100.20	102.20
	Over 10	94.60	96.00	98.80
3. Picnics—Skinless, boneless and fatted.	5 down	69.20	71.00	73.40
	Over 5	64.80	66.40	68.40
4. Shoulders—Skinless, boneless and fatted.	10 down	69.00	70.70	72.70
	Over 10	64.90	66.60	68.60

SPECIAL ADJUSTMENT

If any wholesale pork cut listed above is not trimmed in accordance with the specifications prescribed in Appendix 2, you must deduct $2.50 per cwt. from the prices listed above for any such improperly trimmed cut.

4. Section 24 is amended to read as follows:

SEC. 24. *Schedule V—Wholesale pork cuts: Miscellaneous pork cuts.*

[All prices are on a dollars per cwt. loose basis except that gelatin skins are priced on a dollars per cwt. packed basis. The price for any fraction of a cwt. shall be reduced proportionately]

	Price		
	Fresh or frozen	Cured and smoked	Cooked
1. Hocks, ½ pound up	$20.00	$32.00	
2. Knuckles under ½ pound	22.00	30.00	
3. Feet, regular	8.00		
4. Feet, short cut	6.00		
5. Tidbits from hind feet	15.00		
6. Tails	17.00	22.00	
7. Neck bones	16.00	20.00	
8. No. 1 skins—strips	12.00		
9. Bacon skins		11.00	
10. Gelatin skins (price includes the container; you may not add the additions provided in section 51 or 52)	9.23		
11. Blade butts (blade bones)	36.00	41.00	
12. Backbones	5.00	10.00	
13. Country backbones (southern style)	53.00		
14. Pork tenderloin	89.00		
15. Pork tenderloin tips	87.00		
16. Cappicola butts (cured and cooked) (natural casings):			
2½ pounds down			$94.00
Over 2½ pounds			86.00
17. Cappicola butts (cured and cooked) (artificial casings):			
2½ pounds down			95.50
Over 2½ pounds			87.00
18. Cappicola butts (cured and cooked) (wrapped in cellophane or other transparent material or vegetable parchment):			
2½ pounds down			95.50
Over 2½ pounds			87.00

NOTE: If you sell hocks, knuckles, feet, tidbits from hind feet, No. 1 skins—strips, tails, or neck bones, cured, you may add $1.00 per cwt. to the prices for these items as listed for fresh or frozen.

5. Section 25 is amended to read as follows:

SEC. 25. *Schedule VI—Wholesale pork cuts: Semi-sterile canned meats.*

[All prices are on a dollars per cwt. packed basis. The price for any fraction of a cwt. shall be reduced proportionately. Weights are by range and not by average except for exact weight hams under 7 pounds. Weights refer to the weight of the product immediately before canning. You may not add to the prices listed below the additions provided in section 51 or 52]

	Weight range (pounds)	Price	
		Unsmoked	Smoked
1. Canned whole ham:			
(a) Skinless (exact net weight each) (limited to quarters, halves and full pounds only).	Under 7	$94.00	$97.60
(b) Skinless (all shapes other than Pullman style).	7 to 9	86.50	89.20
	9 to 11	85.50	88.20
	11 to 13	82.00	84.60
	13 to 15	78.90	81.40
(c) Pear-shaped (Polish style with shank collar).	7 to 9	83.50	86.20
	9 to 11	82.50	85.20
	11 to 13	79.00	81.60
(d) Pullman, skinless	7 to 10	87.00	89.70
	10 to 13	83.80	86.50
2. Canned whole picnics	4 to 8	70.60	------
3. Canned spiced luncheon meat.	3	54.70	------
	6 or 8	53.20	------
4. Canned spiced ham	3	76.10	------
	6 or 8	74.60	------
5. Canned pressed ham, boneless, chopped.	3	80.30	------
	6 or 8	78.80	------
	10	78.10	------
6. Canned chopped pork, boneless.	3	57.50	------
	6 or 8	56.00	------
	10	55.30	------

SPECIAL ADJUSTMENTS

Your ceiling price for canned whole hams—skinless, which are opened and removed from the can for inspection and testing, shall be $5.00 per cwt. below the prices listed in section 22, Schedule III, Item 2, for cured and cooked hams of the applicable weight range.

Your ceiling price for canned whole hams (Polish style), which are opened and removed from the can for inspection and testing, shall be $8.00 per cwt. below the prices listed in Section 22, Schedule III, Item 2, for cured and cooked hams of the applicable weight range.

6. Section 27 is amended to read as follows:

SEC. 27. *Schedule VIII—Wholesale pork cuts: Fabricated Loin cuts.*

[All prices are on a dollars per cwt. loose basis; the price for any fraction of a cwt. shall be reduced proportionately]

	Price
Bladeless loin chops (cut end to end):	
Sales by—	
Hotel supply houses to purveyors of meals and by anyone to purveyors of meals as defined in section 60 (p) (4)	$70.30
Combination distributors or peddler truck sellers as defined in section 60 (l) (1) to purveyors of meals	67.80
All other sales	62.80

NOTE: The above cut may be sold only to purveyors of meals, hotel supply houses, combination distributors, ship suppliers and peddler truck sellers as defined in section 60 (l) (1).

7. Section 28 is amended to read as follows:

SEC. 28. *Schedule IX—Wholesale pork cuts: Aged, dry-cured pork cuts.*

[All prices are on a dollars per cwt. loose basis; the price for any fraction of a cwt. shall be reduced proportionately]

Item	Price (aged, dry cured)
1. Ham	$93.50
2. Shoulders	61.10
3. Bacon sides (boneless)	56.00
4. Bacon sides (spareribin)	59.20
5. Hog jaws (also known as rough jowls)	28.20

8. Section 31 is amended to read as follows:

SEC. 31. *Schedule XI—Dressed hogs: Flat price basis.* This section or section 30 may be used to determine the ceiling price of a dressed hog sold to a certified dressed hog processor. This section shall be used to determine the ceiling price of a dressed hog sold to a person other than a certified dressed hog processor.

[All prices are on a dollars per cwt. basis; the price for any fraction of a cwt. shall be reduced proportionately. Weights are by range and not by average]

Shipper Style		Packer Style	
Dressed weight ranges (pounds)	Price	Dressed weight ranges (pounds)	Price
Pigs:		Pigs:	
81 to 99	$36.20	73 to 89	$38.50
100 to 119	35.60	90 to 107	37.80
120 to 136	35.00	108 to 123	37.20
Butchers:		Butchers:	
137 to 153	34.50	124 to 138	36.60
154 to 171	34.40	139 to 154	36.50
172 to 188	33.70	155 to 169	35.80
189 to 213	32.80	170 to 192	34.80
214 to 235	32.40	193 to 213	34.30
236 to 265	31.50	214 to 239	33.30
Over 265	30.30	Over 239	32.00
Sows:		Sows:	
Under 312	32.00	Under 280	33.90
312 and over	29.80	280 and over	31.50

NOTE. Dressed pigs weighing less than 81 pounds, shipper style, or less than 73 pounds, packer style, shall remain under the General Ceiling Price Regulations, as amended and supplemented.

9. Section 43 (a) is amended by deleting paragraph (2) thereof and by inserting a new paragraph (2) to read as follows:

(2) To purveyors of meals, you may add $3.70 per cwt. to the prices specified in Schedules I through IX and XI and to your ceiling price determined under section 29 (a) (2); however, you may not add more than $2.50 to these prices if you take the peddler truck selling addition provided in Section 49; or

10. Section 44 (a) is amended by deleting paragraph (2) thereof and by inserting a new paragraph (2) to read as follows:

(2) To purveyors of meals, you may add $2.70 per cwt. to the prices specified in Schedules I through IX and XI and to your ceiling price determined under section 29 (a) (2); however, you may not add more than $1.50 to these prices if you take the peddler truck selling addition provided in Section 49; or

11. A new secton 54 is added to read as follows:

SEC. 54. *Addition 15—Slaughterer's addition on a sale to a purveyor of meals.* (a) On the sale of any pork product to a purveyor of meals, you may add $1.20 to the ceiling prices specified in Article II. However, you may not take this addition if you take the peddler truck selling addition provided in section 49.

12. Appendix 2 (c) (1) is amended by adding at the end thereof a new subdivision (i) reading as follows:

(i) *Ham, bone in, skinless and fatted,* means a ham cut as described in Appendix 2 (c) (1) except that all skin has been removed and all trimmable fat has been removed therefrom to within ½ inch of the lean.

13. Appendix 2 (c) (89) is amended by adding at the end thereof a new subdivision (ii) reading as follows:

(ii) *Hog face* means a hog head as defined in Appendix 2 (c) (89) except that the lower jaw is removed.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective on July 29, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8407; Filed, July 29, 1952; 10:57 a. m.]

[Ceiling Price Regulation 5, Amdt. 9]

CPR 5—IRON AND STEEL SCRAP

AUTOMOBILE BODY SCRAP—DEALER TO DEALER DIFFERENTIAL; MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this amendment to Ceiling Price Regulation 5, is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment makes two major changes in CPR 5 in addition to several changes of a clarifying and corrective nature.

There is established a new unprepared grade of steel scrap of dealer and industrial origin consisting of automobiles, buses, trucks, trailers and other motor vehicles sold prior to demolition for scrapping purposes or to a consumer of iron and steel scrap. Prior to this amendment such motor vehicles were included within the definition of demolition projects and were priced under the General Ceiling Price Regulation. It is the opinion of the Director that such vehicles do not properly belong within this category of projects which historically have been distinguished from unprepared scrap because of the special skills and equipment needed to handle them not ordinarily available to the average processor of scrap and because of the varying amount of reusable and non-ferrous material contained in such projects. The costs of demolition and preparation of true demolition projects will vary greatly with each job and at times may even exceed the ceiling price for the resultant scrap. It was because of these distinguishing characteristics that demolition projects were left under

the General Ceiling Price Regulation in the absence of adequate provisions in CPR 5 to price such material.

Automobiles, buses, trucks, trailers and other motor vehicles, on the other hand produce fairly uniform quantities of iron and steel scrap and non-ferrous scrap and have been customarily considered by the iron and steel scrap industry as important and regular sources of grades 33, 34, and motor blocks. In fact, auto scrap is preceded only by industrial and railroad scrap in importance.

Normally such vehicles are purchased by auto wreckers who strip them of all usable parts for resale. After being stripped, they are demolished and prepared by the auto wrecker, or sold to scrap preparation yards who have developed facilities for the efficient processing of this scrap. To facilitate the pricing of such scrap material on a uniform basis, the lack of which under the GCPR has hitherto led to much confusion among both buyers and sellers, a grade differential has been established by this amendment which takes into account the normal amount of non-metallic attachments such as upholstery, glass, etc., and the cost of burning, demolishing and preparing the vehicle into its component grades of iron and steel scrap. No allowance has been made for the non-ferrous batteries or radiators in view of the fact that such items are customarily and easily removed prior to demolition. Correspondingly, however, no additional charge may be made for such items unless they are removed by the seller and invoiced, weighed and shipped separately. No fees for intransit preparation of the new grade 35 may be charged or paid.

The second major change affecting dealer and industrial scrap is the revision of the dealer to dealer differential. When ceiling prices were established by Amendment 5 to CPR 5 for sales of iron and steel scrap between dealers, a one dollar differential was provided for the scrap collection in recognition that the spread between the ceiling price for unprepared scrap paid to the industrial producer and the ceiling price received for the prepared grade must be apportioned among the collecting, trucking, preparation and handling functions. Considering the fact that the collectors and small peddlers normally pick up such unprepared scrap at the generator's plant in their own trucks and haul it directly to the preparer's yard, which may be some distance away, without bringing it into their own yard, the trucking and delivery aspect of their operation is an important one. It has been amply demonstrated, however, since the effective date of Amendment 5, that the one dollar per gross ton is disproportionately small and has forced many collectors to curtail or abandon their delivery operation. This in effect forces the preparer to remove the scrap from the collector's yard either in his own truck or in a common carrier truck, the added expense of which must be met out of the remaining spread realized by the preparer.

This amendment apportions the respective charges more realistically by increasing from one dollar to two and a half dollars the fee which the dealer who sells unprepared scrap to another dealer and delivers it in his own truck to the preparer's yard may charge.

The provisions relating to vessel movements have been amended to permit the payment of dock charges where the National Production Authority allocates for rail shipment, scrap which has already been stored at a dock for water movement. Since the shipper who has already stored the scrap at a dock for water shipment will have incurred the costs contemplated by the regulation, it is felt that such a shipper should receive compensation for the costs involved where he is directed by a governmental agency to ship his scrap by rail.

The restrictions on intransit preparation of dealer and industrial scrap have been clarified to correspond with the interpretations which have been issued concerning the method of shipment permitted. One of the circumstances in which a consumer may designate a dealer to prepare steel scrap of dealer and industrial origin on an intransit basis is where he purchases such unprepared scrap in rail carload lots. The term "rail carload lots" designates the mode of transportation as well as the quantity. Thus the only circumstances under which scrap may be trucked into the preparer's yard on an intransit basis is when the material is allocated by the National Production Authority for shipment by truck.

Another aspect of the same problem is the quantity of scrap intended by the words "rail carload lot". It is obvious that as regards sheet iron (grade 33) and other light scrap a rail car cannot always be loaded to the full weight to which the minimum carload freight applies. This results in dead freight charges for the difference in weight. The provisions have been amended to specify that a rail car must be loaded to at least maximum visible capacity and that all freight charges for a carload weighing 30,000 pounds and over may be charged to the consumer. For carloads weighing less than 30,000 pounds, the prorated dead freight charges for the difference between the weight actually shipped and the 30,000 pounds may not be paid by the consumer or his broker and must be charged back to the shipper.

In the formulation of this amendment there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

Ceiling Price Regulation 5 is amended in the following respects:

1. Section 1 (a) (1) is amended to read as follows;

(1) All sales and deliveries, including export sales and sales for export, by any person of prepared and unprepared iron and steel scrap:

2. Section 3 (a) (2) is amended by adding the following grade (35):

35. Automobiles, buses, trucks, trailers and other motor vehicles: —12.00.

3. Section 3 (c) (5) is amended to read as follows:

(5) The ceiling shipping point price for the sale of any grade of unprepared steel scrap of dealer or industrial origin (grades 32, 33, 34 and 35) by a dealer to another dealer (excluding brokers) is the price determined for the applicable grade in accordance with section 4 plus an amount not to exceed one of the following:

(i) When the material is loaded in a railroad car or common carrier truck or vessel—$1.00 per gross ton.

(ii) When the material is delivered to the preparer's yard in a vehicle owned or controlled by the shipper—$2.50 per gross ton.

4. Section 5 (a) is amended by changing the name Warren, Pennsylvania, to read Warren, Ohio.

5. Section 6 (a) is amended to read as follows:

(a) The ceiling delivered price of any grade of steel scrap delivered by rail, vessel, or combination thereof, shall be the shipping point price as determined in section 4 hereof, plus the actual charge for transporting the scrap from the shipping point to the point of delivery by the means of transportation employed, except as provided in section 15 (f) on intransit preparation.

6. Section 6 is amended by adding the following paragraph (d):

(d) Where scrap is allocated by the National Production Authority for rail shipment, and prior to the date of the NPA allocation order such scrap has been stored at a dock for water movement, the dock charges set forth in paragraph (b) may be charged and paid.

7. Section 15 (a) (1) is amended to read as follows:

(1) Where unprepared steel scrap of dealer and industrial origin (other than grade 35) is allocated for preparation intransit by the National Production Authority.

8. Section 15 (a) (2) is amended to read as follows:

(2) Where a consumer purchases unprepared steel scrap of dealer and industrial origin (other than grade 35) for shipment by rail to the preparer's yard in minimum rail carload lots. A railroad car loaded to maximum visible capacity will be considered a minimum rail carload lot. Grade 35 cannot be prepared on an intransit preparation fee basis.

9. Section 15 (f) is amended to read as follows:

(f) Whenever intransit preparation of iron or steel scrap is permissible pursuant to the provisions of this section, the ceiling delivered price shall be the ceiling shipping point price plus the rail transportation charges to the point of preparation, or the ceiling on-line price plus any off-line rail transportation charges to the point of preparation, plus the applicable ceiling preparation fee as established in section 16 of this regulation, plus the transportation charges from the preparation yard to the point

of delivery as established and restricted in sections 6, 9, 12 or 13 of this regulation, whichever is applicable.

The rail transportation charges to the point of preparation may include any charges for dead freight providing the scrap material is loaded in the railroad car to maximum visible capacity and weighs not less than 30,000 pounds. If the scrap material weighs less than 30,000 pounds an adjustment must be made for the prorated dead freight charges for the difference in the weight actually shipped and 30,000 pounds so that this proportion of the dead freight charges will not be paid by the consumer or his broker.

10. Section 23 is amended by adding the following paragraph (d):

(d) *Unprepared grades.*

(32) *Unprepared steel scrap which when compressed constitutes No. 1 bundles.*

(33) *Unprepared steel scrap which when compressed constitutes No. 2 bundles.*

(34) *Unprepared steel scrap other than material suitable for hydraulic compression.*

(35) *Automobiles, buses, trucks, trailers and other motor vehicles.* Automobiles, buses, trucks, trailers and other motor vehicles; it may include non-ferrous and non-metallic attachments which are an integral part of the vehicle, including the attached tires, batteries, radiators, upholstery and glass. It must be free of all non-metallic material which is not an integral and attached part of the vehicle.

11. Section 28 (b) is amended to read as follows:

(b) "Iron and steel scrap" means all ferrous materials, either alloyed or unalloyed, of which iron or steel is a principal component, which are the waste of industrial fabrication, or objects that have been discarded on account of obsolescence, failure or any other reason. It does not include any material which qualifies as a re-usable product by reason of its condition, which is sold as a re-usable product, and which is not purchased for use in any of the operations mentioned in paragraph (c) of this section It does not include demolition projects, as defined in paragraph (n) of this section, prior to demolition. It includes automobiles, buses, trucks, trailers and other motor vehicles when sold for demolition into scrap or when sold to any consumer as defined in paragraph (c). It does not include metal coated ferrous material sold for the recovery of the coating substance to a person regularly engaged in such operation. It does not include tool steel scrap containing 1 percent or more of tungsten or molybdenum nor does it include stainless steel scrap for which ceiling prices have been established under Ceiling Price Regulation 29.

12. Section 28 (n) is amended by deleting the word "automobiles" in the first sentence.

Effective date. This amendment to Ceiling Price Regulation 5 shall become effective August 2, 1952.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

ELLIS ARNALL,
Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8405; Filed, July 29, 1952; 10:57 a. m.]

[Ceiling Price Regulation 151, Amdt. 1]

CPR 151—APPALACHIAN HARDWOOD LUMBER

ESTABLISHED WEIGHTS FOR GREEN LUMBER

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 1 to Ceiling Price Regulation 151 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment establishes weights for green lumber for use in computing ceiling delivered prices under section 6.2. The regulation as originally issued provided established weights for air-dried lumber only. Since the regulation was issued, a number of requests have been received showing the need for established green weights. This amendment meets the need for such weights.

The weights shown are the weights commonly accepted in the industry. They are based on the weights shown in the "Rules for the Measurement and Inspection of Harwood Lumber, Cypress, Veneers and Thin Lumber," effective January 1, 1952, published by the National Hardwood Lumber Association, which have been adjusted to allow for the untrimmed and unedged cuttings of circular sawmills.

In the formulation of this amendment, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act.

AMENDATORY PROVISIONS

Ceiling Price Regulation 151 is hereby amended in the following respect:

A new section, 3.12, is added to article III, immediately following section 3.11, to read as follows:

SEC. 3.12. *Established weights for green lumber.* The established weights per thousand feet for green lumber covered by this regulation, for use in computing transportation additions under section 6.2, are as follows:

ESTABLISHED GREEN LUMBER WEIGHTS

[Pounds per 1,000 feet]

Species	Thickness (inch)								
	5/8	3/4	4/4	5/4	6/4	8/4	10/4	12/4	16/4
Firm to tough ash		4,100	4,900	4,900	5,000	5,100	5,100	5,300	5,300
Basswood		3,500	4,800	5,000	5,000	5,200	5,200	5,400	5,400
Beech	3,700	4,400	5,700	5,800	6,000	6,200			
Birch			5,700	5,800	6,000	6,100	6,300	6,300	
Buckeye			4,800	5,000	5,000	5,100			
Butternut			4,100	4,300	4,400	4,700			
Cherry			5,200	5,200	5,400	5,500	5,500	5,600	5,600
Chestnut			5,400	5,400	5,900	6,000			
Mountain elm			5,500	5,500	5,600	5,800	5,800	6,000	
Black gum			5,100	5,300	5,400	5,700			
Hickory			6,200	6,400	6,500	6,800	6,900	7,000	7,000
Hard maple		4,900	5,900	6,000	6,200	6,400	6,600	6,700	7,000
Hard maple—curly			5,900	6,000	6,200				
Soft maple			5,400	5,600	5,700	6,000	6,100	6,300	6,600
Red oak—plain	3,600	4,400	5,800	5,900	6,000	6,300	6,400	6,600	6,800
White oak—plain	3,600	4,400	5,800	5,900	6,000	6,300	6,400	6,600	6,800
White oak—BP and WHND			5,800	5,900	6,000	6,300	6,400	6,600	6,800
White oak—quartered		4,400	5,800	5,900	6,000	6,300	6,400	6,600	
Poplar	2,900	3,600	4,600	4,700	4,900	5,100	5,300	5,400	5,700
Sycamore			4,800						

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective August 2, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8410; Filed, July 29, 1952; 10:57 a. m.]

[Ceiling Price Regulation 5, Amdt. 10]

CPR 5—IRON AND STEEL SCRAP

CEILING SHIPPING POINT PRICES FOR STEEL SCRAP ORIGINATING IN YARDS SITUATED IN NEW YORK CITY

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this amendment to Ceiling Price Regulation 5 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Ceiling Price Regulation 5 modifies the provisions of section 4 (d) which establish ceiling shipping point prices for steel scrap at shipping points in New York City and Brooklyn, New York.

Prior to the issuance of this amendment, section 4 (d) provided that the ceiling shipping point price of the base grade, OPS Grade 1, No. 1 bundles, with differentials established in section 3 of

CPR 5 for other grades, at all shipping points in New York City and Brooklyn, New York, should be $36.99 per gross ton. The definition of shipping point which is pertinent here is stated in section 28 (i) to be the point where the scrap has been placed f. o. b. railroad cars.

It has now come to the attention of the Office of Price Stabilization that there is at least one dealer in iron and steel scrap whose yard is located in New York City but who uses rail facilities situated outside New York City. Historically, this dealer has been recognized in the trade as a New York City dealer and he is in direct competition with the other dealers situated in New York City. The closest rail point to his yard is beyond the New York City limits, and the railroad has constructed special facilities at this rail point for this dealer. The rail rates from this rail point outside New York City to Bethlehem and Pittsburgh, Pennsylvania, are the same as the rates to Bethlehem and Pittsburgh, Pennsylvania, prevailing at the two rail points in New York City which are closest to this scrap dealer's yard.

However, due to the wording of section 4 (d) and the definition of "shipping point" as set forth in section 28 (i) a dealer is not entitled to use the ceiling shipping point prices established for the New York City area if he loads at a rail point outside New York City even though his yard is situated in New York City. As a result, a dealer in this position is not able to effectively compete with other dealers in the New York City area who use rail points within the city of New York.

Therefore, it appears that Ceiling Price Regulation 5, although generally fair and equitable to the group which it covers, may work hardship or inequity on at least one dealer in iron and steel scrap. The Office of Price Stabilization has recognized that adjustments should be made in such individual hardship cases. To alleviate this unintended hardship on such dealers in iron and steel scrap, this amendment to CPR 5 is being issued. It will permit a dealer to use the ceiling shipping point prices established for New York City when the scrap originates at his yard located in New York City even though he may use a rail point located outside New York City, if such rail point is the closest one to his yard where the scrap in question originates. It is believed that this modification of section 4 (d) will evoke a more equitable situation and will enable such dealers to effectively compete in the New York City area.

In the formulation of this amendment there has been consultation with industry representatives, including trade association representatives, to the extent practicable, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

1. Section 4 (d) is amended to read as follows:

(d) The ceiling shipping point price for No. 1 bundles (with differentials established in section 3 hereof for all other grades) at all shipping points in New York City (or Brooklyn, New York) shall be $36.99 per gross ton: *Provided, however,* a dealer whose yard is situated in New York City and who customarily places his scrap f. o. b. railroad cars at a point outside New York City may use the ceiling shipping point prices established above for shipping points in New York City, if the rail point outside New York City which he uses is the closest rail point to the yard in which the scrap originated.

Effective date. This amendment to Ceiling Price Regulation 5 is effective August 2, 1952.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

ELLIS ARNALL,
Director of Price Stabilization.

JULY 29, 1952.

[F. R. Doc. 52-8406; Filed, July 29, 1952; 10:57 a. m.]

Chapter VI—National Production Authority, Department of Commerce

[CMP Regulation No. 1, Direction 12; Revocation]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 12—RESTRICTIONS ON STEEL SHIPMENTS AND ACCEPTANCE OF DELIVERIES

REVOCATION

Direction 12 (17 F. R. 6430) to CMP Regulation No. 1 is hereby revoked. This revocation does not relieve any person of any obligation or liability incurred under Direction 12 to CMP Regulation No. 1, nor deprive any person of any rights received or accrued under said direction prior to the effective date of this revocation.

(64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation is effective July 28, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52-8393; Filed, July 28, 1952; 5:32 p. m.]

[NPA Order M-6A, Direction 3 of July 28, 1952]

M-6A—STEEL DISTRIBUTORS

DIR. 3—SUPPLEMENTAL SHIPMENTS BY PRODUCERS—LIMITATIONS ON DISTRIBUTORS' DELIVERIES

This direction to NPA Order M-6A is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action.

Sec.
1. What this direction does.
2. Limitations on deliveries by distributors.
3. Shipments to distributors.
4. Item limitation.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp.; secs. 402, 405, E. O. 10231, Aug. 23, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *What this direction does.* This direction makes a number of changes in the present orders and regulations concerning steel distributors. These changes are occasioned by the recent work stoppage in the steel industry. It requires certain forms and shapes in stock or acquired by distributors to be shipped or delivered by them only on defense orders for a limited period. It increases the quantities of steel required to be shipped by producers to distributors subject to certain limitations. It makes provision with respect to the recent production losses. It temporarily modifies section 5 of NPA Order M-6A by permitting steel distributors to accept and fill orders for smaller quantities than heretofore required.

SEC. 2. *Limitations on deliveries by distributors.* From the effective date of this direction through the close of business August 7, 1952, no steel distributor shall ship or deliver any steel in the shapes and forms listed in List A of this direction from his inventory of such steel on hand on the effective date of this direction, except on authorized controlled material orders bearing allotment symbols A, B, C, or E, and a digit, or Z-2, or allotment symbols accompanied with the suffix B-5. No steel distributor, who receives steel in the shapes and forms listed in List A of this direction during the period from the effective date of this direction through the close of business December 31, 1952, shall ship or deliver more than 50 percent of the tonnage of any product listed in List A received in any one shipment during such period for a period of 15 days after receipt of any such shipment, except on authorized controlled material orders bearing allotment symbols A, B, C, or E, and a digit, or Z-2, or allotment symbols accompanied with the suffix B-5. Accurate records of each transaction covered by this section shall be set up and maintained by each steel distributor in accordance with and pursuant to the provisions of section 10 of NPA Order M-6A.

SEC. 3. *Shipments to distributors.* (a) Subject to the limitations in this paragraph, each producer shall be obligated to accept purchase orders from steel distributor customers which call for shipments during the months of September, October, and November 1952, or to ship on unfilled orders calling for earlier delivery, up to a minimum of not less than 120 percent of the base tonnage of each steel distributor customer instead of the 100 percent presently provided in section 3 of NPA Order M-6A. A producer may cancel orders (to the extent hereafter provided) for any product received from any steel distributor customer in excess of such distributor's base tonnage of that product, if the total tonnage of orders for that product

scheduled for delivery in that month from steel distributors, further converters as defined in NPA Order M–1, and from persons placing authorized controlled material orders bearing allotment symbols A, B, C, or E, and a digit, or Z–2, or allotment symbols accompanied with the suffix B–5, exceeds 50 percent of the producer's planned production for that month. The amount by which such orders mentioned in the preceding sentence exceeded 50 percent of such producer's planned production is herein referred to as the "supplemental tonnage". If the supplemental tonnage exceeds 20 percent of the base tonnage of all steel distributor customers, then all steel distributor orders for that product in excess of the base tonnage shall be cancelled. If the supplemental tonnage is less than 20 percent of the base tonnage of all steel distributor customers then a percentage of the orders for that product from any steel distributor customer in excess of such distributor's base tonnage of that product shall be cancelled. Such percentage shall be determined by dividing the difference between 20 percent of the base tonnage and the supplemental tonnage of all steel distributor customers by 20 percent of the base tonnage. If any such order is cancelled there shall be no obligation upon the producer cancelling the order to fill the same in a subsequent month.

(b) To the extent practicable and within the limitations of paragraph (a) of this section, producers shall ship during August 1952 to their steel distributor customers up to a minimum of 120 percent of their base tonnage on orders calling for delivery during the month of August or in prior months.

(c) Under section 3 to NPA Order M–6A producers are required to accept purchase orders from steel distributor customers up to a minimum of 100 percent of such distributor's base tonnage. To the extent that shipment of such orders were or are stopped for reasons occasioned by the work stoppage, producers are not required to accept orders pursuant to section 3 of NPA Order M–6A, provided tonnage is shipped to distributors in the quantities provided in section 3 (a) of this direction, it being the intent hereof that the flow of steel to distributors commence immediately pursuant to this section 3, but that producers be relieved of any obligation to make up lost tonnages.

SEC. 4. *Item limitation.* During the period from the effective date of this direction through the close of business November 29, 1952, no steel distributor shall be required to make delivery on an authorized controlled material order from inventory to any one customer to any one destination during any calendar week of any item of a steel product in quantities in excess of the following:

Any item of carbon steel more than 4,000 pounds.

Any item of alloy steel more than 2,500 pounds.

Any item of stainless steel sheet more than 1,000 pounds.

Any item of stainless bars and plates more than 500 pounds.

Any item of stainless tubing or pipe more than 500 pounds or feet, whichever is less.

In no case shall a steel distributor be required to make deliveries to any one customer aggregating 20,000 pounds or more during any calendar week unless the deliveries include 10 or more different items, subject to the limitations of the preceding sentence as to each item.

This direction shall take effect July 28, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

LIST A

Bar, hot-rolled:
Bar, cold-finished.
Electrical sheet and strip (high-grade).[1]
Structural shapes (wide-flanged sections).[2]
Pressure tubing—seamless and welded.
Mechanical tubing—seamless.
Plate, sheared.
Sheet and strip—hot-rolled.
Sheet and strip—cold-rolled.

[F. R. Doc. 52–8392; Filed, July 28, 1952; 5:32 p. m.]

[NPA Order M–42—Revocation]

M–42—INSECT WIRE SCREENING

REVOCATION

NPA Order M–42 (16 F. R. 2033) is hereby revoked.

This revocation does not relieve any person of any obligation or liability incurred under NPA Order M–42 nor deprive any person of any rights received or accrued under said order prior to the effective date of this revocation.

(Sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation is effective July 29, 1952.

NATIONAL PRODUCTION AUTHORITY;
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52–8413; Filed, July 29, 1952; 11:03 a. m.]

[CMP Regulation 1, Direction 15 of July 29, 1952]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 15—SPECIAL DELIVERY STATUS OF CERTAIN MILITARY ORDERS

This direction under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

[1] AISI—M17, M15, M14, and oriented.

[2] Wide-flanged sections are steel beams or columns having parallel face flanges rolled on a universal structural mill or Gray mill, in sizes ranging in depth from 4 to 36 inches.

Sec.
1. What this direction does.
2. Preferential status of certain authorized controlled material orders.
3. Applicability of other regulations and orders.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR 1951 Supp.

SECTION 1. *What this direction does.* The purpose of this direction is to insure, so far as practicable, that all authorized controlled material orders placed with steel mills in support of military, atomic energy, and machine tool programs, calling for delivery prior to the fourth quarter (or calling for delivery in the first 2 months of the fourth quarter when placed with third quarter allotments pursuant to Direction 16 to CMP Regulation No. 1), are delivered not later than November 30, 1952. This will be accomplished by according preferential delivery status to such orders.

SEC. 2. *Preferential status of certain authorized controlled material orders.* A steel controlled materials producer who has accepted, or hereafter accepts, an authorized controlled material order for steel bearing a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, calling for delivery on or before September 30, 1952, or calling for delivery in October or November 1952 when placed with a third calendar quarter allotment pursuant to Direction 16 to CMP Regulation No. 1, shall make shipment against such order as close to the requested delivery date as is practicable. If it not possible for him to make shipment by November 30, 1952, against all authorized controlled material orders for steel calling for delivery on or before September 30, 1952, or calling for delivery in October or November 1952 when placed with third calendar quarter allotments pursuant to Direction 16 to CMP Regulation No. 1, he must schedule for production and ship against orders bearing a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, in preference to orders not bearing such a program identification: *Provided, however,* That those provisions of NPA Order M–1 and NPA Order M–6A pertaining to shipments by producers to further converters and distributors are not superseded. To the extent that he is unable to make shipment by November 30, 1952, against all authorized controlled material orders for steel bearing a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, calling for delivery on or before September 30, 1952, or calling for delivery in October or November 1952 when placed with third calendar quarter allotments pursuant to Direction 16 to CMP Regulation No. 1, he shall promptly notify NPA, Iron and Steel Division, by letter or telegram, listing such orders.

SEC. 3. *Applicability of other regulations and orders.* The provisions of CMP

Regulation No. 1, Revised CMP Regulation No. 6, NPA Order M-1, including the directions and amendments thereto, and of any other NPA regulation and order heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

This direction shall take effect July 29, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52-8427; Filed, July 29, 1952; 12:02 p. m.]

[CMP Regulation 1, Direction 16 of July 29, 1952]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 16—THIRD AND FOURTH QUARTER AUTHORIZED CONTROLLED MATERIAL ORDERS

This direction under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Third quarter authorized controlled material orders.
3. Fourth quarter authorized controlled material orders.
4. Applicability of other regulations and orders.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR 1951 Supp.

SECTION 1. *What this direction does.* The purpose of this direction is to permit the placement and acceptance of certain third quarter 1952 and fourth quarter 1952 authorized controlled material orders even though they call for delivery after the end of such quarters.

SEC. 2. *Third quarter authorized controlled material orders.* (a) The provisions of this section apply to all authorized controlled material orders for the third calendar quarter of 1952 which are placed on and after the effective date of this direction.

(b) An authorized controlled material order for steel placed pursuant to an allotment for the third calendar quarter of 1952 which contains the quarterly identification 3Q52, or an authorized controlled material order for steel placed pursuant to self-authorization (for example, Direction 1 to CMP Regulation No. 1) or quota (for example, CMP Regulation No. 5) for the third calendar quarter of 1952 which does not contain a quarterly identification, may call for delivery at any time up to November 30, 1952: *Provided, however,* That such order is placed pursuant to load time requirements. A steel controlled materials producer or a steel controlled materials distributor who receives an authorized controlled material order for steel which bears the quarterly identification 3Q52 and which calls for delivery between October 1, 1952, and November 30, 1952, shall accept and fill such order in preference to an authorized controlled material order which bears the quarterly identification 4Q52 and which calls for delivery between October 1, 1952, and November 30, 1952, notwithstanding the sequence of order placement.

SEC. 3. *Fourth quarter authorized controlled material orders.* (a) The provisions of this section apply only to authorized controlled material orders for the fourth calendar quarter of 1952 which do not bear a program identification A, B, C, or E, and a digit (including the suffix B-5), or Z-2, and which are placed on and after the effective date of this direction.

(b) An authorized controlled material order for steel placed pursuant to an allotment for the fourth calendar quarter of 1952 which contains the quarterly identification 4Q52, or an authorized controlled material order for steel placed pursuant to self-authorization (for example, Direction 1 to CMP Regulation No. 1) or quota (for example, CMP Regulation No. 5) for the fourth calendar quarter of 1952 which does not contain a quarterly identification, may call for delivery at any time from October 1, 1952, to February 28, 1953: *Provided, however,* That such order is placed pursuant to lead time requirements. A steel controlled materials producer or a steel controlled materials distributor who receives an authorized controlled material order for steel which bears the quarterly identification 4Q52 and which calls for delivery between January 1, 1953, and February 28, 1953, shall accept and fill such order in preference to an order which bears the quarterly identification 1Q53 and which calls for delivery between January 1, 1953, and February 28, 1953, notwithstanding the sequence of order placement.

SEC. 4. *Applicability of other regulations and orders.* The provisions of CMP Regulations Nos. 1 and 4, Revised CMP Regulation No. 6, NPA Orders M-1 and M-6A, including the directions and amendments thereto, and of any other NPA regulation and order heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

This direction shall take effect July 29, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52-8428; Filed, July 29, 1952; 12:02 p. m.]

[CMP Regulation 2, Amendment 1 of July 29, 1952]

CMP REG. 2—INVENTORIES OF CONTROLLED MATERIALS

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the amendment affects many different industries.

This amendment affects CMP Regulation No. 2, as amended October 12, 1951, by amending paragraph (a) of section 3 to read as follows:

(a) No user of controlled material shall accept delivery of any item of steel listed in Schedule I of CMP Regulation No. 1, if his inventory of such item is, or by such receipt would become, in excess of the quantity of such item necessary to meet his deliveries, supply his services, or perform his operations, on the basis of his currently scheduled method and rate of operation during the succeeding 45-day period, or in excess of a "practicable minimum working inventory" (as defined in NPA Reg. 1), whichever is less: *Provided, however,* That from September 1, 1952, to December 31, 1952, the above specified 45-day period shall be a 30-day period.

(64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This amendment shall take effect July 29, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52-8429; Filed, July 29, 1952; 12:03 p. m.]

[CMP Regulation 3, Direction 4 as Amended July 29, 1952]

CMP REG. 3—PREFERENCE STATUS OF DELIVERY ORDERS UNDER THE CONTROLLED MATERIALS PLAN

DIR. 4—SPECIAL PREFERENCE STATUS OF CERTAIN DO RATED ORDERS

This amended direction under CMP Regulation No. 3 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction as amended, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Status of certain DO rated orders.
3. Applicability of other regulations and orders.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951,

16 F. R. 61; 3 CFR 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR 1951 Supp.

SECTION 1. *What this direction does.* The purpose of this direction is to channel into defense programs, so far as practicable, Class A and B products containing steel. This will be accomplished by according special preference status to DO rated orders for such products, calling for delivery on or before December 31, 1952, placed in support of military, atomic energy, and machine tool programs.

SEC. 2. *Status of certain DO rated orders.* Any DO rated order for a Class A product containing steel or a Class B product containing steel, bearing a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, calling for delivery on or before December 31, 1952, must be accepted and filled in preference to all other DO rated orders for Class A products containing steel or Class B products containing steel, previously or subsequently received, but which do not bear a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2: *Provided, however,* That such a DO rated order need not be accepted if filling it would stop or interrupt the supplier's operations during the next 15 days in a way which would cause a substantial loss of total production or a substantial delay in operations. All DO rated order (including those previously placed) for Class A products containing steel or Class B products containing steel, which bear a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, shall have equal preferential status.

SEC. 3. *Applicability of other regulations and orders.* The provisions of CMP Regulation No. 3, NPA Reg. 2, including the directions and amendments thereto, and of any other NPA regulation and order heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

This direction, as amended, shall take effect July 29, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52–8430; Filed, July 29, 1952; 12:03 p. m.]

[Revised CMP Regulation 6, Direction 6 of July 29, 1952]

CMP REG. 6—CONSTRUCTION

DIR 6—THIRD AND FOURTH QUARTER AUTHORIZED CONTROLLED MATERIAL ORDERS

This direction under Revised CMP Regulation No. 6 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Third quarter authorized controlled material orders.
3. Fourth quarter authorized controlled material orders.
4. Applicability of other regulations and orders.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR 1951 Supp.

SECTION 1. *What this direction does.* The purpose of this direction is to permit the placement and acceptance of certain third quarter 1952 and fourth quarter 1952 authorized controlled material orders even though they call for delivery after the end of such quarters.

SEC. 2. *Third quarter authorized controlled material order.* (a) The provisions of this section apply to all authorized controlled material orders for the third calendar quarter of 1952 which are placed on and after the effective date of this direction.

(b) An authorized controlled material order for steel placed pursuant to an allotment for the third calendar quarter of 1952 which contains the quarterly identification 3Q52, or placed for delivery in the third calendar quarter of 1952 pursuant to the provisions relating to self-authorization set forth in either Article IV of Revised CMP Regulation No. 6 or in NPA Order M–100, may call for delivery at any time up to November 30, 1952: *Provided, however,* That such order is placed pursuant to lead-time requirements. A steel controlled materials producer or a steel controlled materials distributor who receives an authorized controlled material order for steel which bears the quarterly identification 3Q52 and which calls for delivery between October 1, 1952, and November 30, 1952, shall accept and fill such order in preference to an authorized controlled material order which bears the quarterly identification 4Q52 and which calls for delivery between October 1, 1952, and November 30, 1952, notwithstanding the sequence of order placement.

SEC. 3. *Fourth quarter authorized controlled material orders.* (a) The provisions of this section apply only to authorized controlled material orders for the fourth calendar quarter of 1952 which do not bear a program identification A, B, C, or E, and a digit (including the suffix B–5), or Z–2, and which are placed on and after the effective date of this direction.

(b) An authorized controlled material order for steel placed pursuant to an allotment for the fourth calendar quarter of 1952 which contains the quarterly identification 4Q52, or placed for delivery in the fourth calendar quarter of 1952 pursuant to the provisions relating to self-authorization set forth either in Article IV of Revised CMP Regulation No. 6 or in NPA Order M–100, may call for delivery at any time from October 1, 1952, to February 28, 1953: *Provided, however,* That such order is placed pursuant to lead-time requirements. A steel controlled materials producer or a steel controlled materials distributor who receives an authorized controlled material order for steel which bears the quarterly identification 4Q52 and which calls for delivery between January 1, 1953, and February 28, 1953, shall accept and fill such order in preference to an order which bears the quarterly identification 1Q53 and which calls for delivery between January 1, 1953, and February 28, 1953, notwithstanding the sequence of order placement.

SEC. 4. *Applicability of other regulations and orders.* The provisions of CMP Regulations Nos. 1 and 4, Revised CMP Regulation No. 6, NPA Orders M–1 and M–6A, including the directions and amendments thereto, and of any other NPA regulation and order heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

This direction shall take effect July 29, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52–8431; Filed, July 29, 1952; 12:03 p. m.]

Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 1, Amdt. 66 to Schedule A]

[Rent Regulation 2, Amdt. 64 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CERTAIN STATES

Effective July 30, 1952, Rent Regulation 1 and Rent Regulation 2 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 25th day of July 1952.

TIGHE E. WOODS,
Director of Rent Stabilization.

1. Schedule A, Item 33a, is amended to describe the counties in the defense-rental area as follows:

Monterey County, except the Cities of Carmel-by-the-Sea, Monterey, Pacific Grove and Salinas.

In Monterey County, the Townships of Alisal, Castroville, Gonzales, Monterey and Pajaro, except the Cities of Carmel-by-the-Sea, Monterey, Pacific Grove and Salinas.

In Santa Cruz County, the Township and City of Watsonville; in San Benito County, the Townships of Hollister and San Juan.

This decontrols the Cities of Monterey and Pacific Grove in Monterey County, California, portions of the Monterey Bay, California, Defense-Rental Area.

2. Schedule A, Item 83, is amended to describe the counties in the defense-rental area as follows:

Cook County, except (i) the Cities of Berwyn, Blue Island, Calumet City, Chicago Heights, Des Plaines, Harvey, Park Ridge, and that portion of the City of Elgin located therein, (ii) the Town of Cicero, (iii) the Villages of Arlington Heights, Bartlett, Bellwood, Brookfield, Burnham, Calumet Park, Crestwood, Dolton, East Hazelcrest, Flossmoor, Franklin Park, Glencoe, Glenview, Hazelcrest, Hillside, Homewood, Kenilworth, La Grange Park, Lansing, Lemont, Lyons, Markham, Matteson, Morton Grove, Mt. Prospect, Northfield, Oak Forest, Orland Park, Palatine, Phoenix, Riverdale, River Forest, Riverside, South Holland, Thornton, Tinley Park, Westchester, Western Springs, Wheeling, Wilmette, Winnetka, and (iv) those portions of the Villages of Barrington, Hinsdale and Steger located in said Cook County; Kane County, except that portion of the City of Elgin located therein, the Cities of Batavia, Geneva and St. Charles, and the Villages of Carpentersville, East Dundee, Hampshire, South Elgin and West Dundee; and Lake County, except the City of Lake Forest, the Villages of Deerfield and Grayslake, and that portion of the Village of Barrington located therein.

This decontrols the Town of Cicero in Cook County, Illinois, a portion of the Chicago, Illinois, Defense-Rental Area.

3a. In Rent Regulation 1, Item 91 of Schedule A is amended to describe the counties in the defense-rental area as follows:

Champaign County, except the Cities of Champaign and Urbana, and the Village of St. Joseph; and Vermilion County.

b. In Rent Regulation 2, Item 91 of Schedule A is amended to describe the counties in the defense-rental area as follows:

Champaign County, except the Cities of Champaign and Urbana, and the Village of St. Joseph.

This decontrols the Village of St. Joseph in Champaign County, Illinois, a portion of the Champaign-Vermilion, Illinois, Defense-Rental Area.

4. Schedule A, Item 102, is amended to describe the counties in the defense-rental area as follows:

Lake County, except the Cities of Crown Point, East Chicago, Hammond, Hobart and Whiting, the Towns of Highland and Munster, and the Townships of Cedar Creek, Eagle Creek, Hanover, West Creek and Winfield.

Ditto.

In Lake County, the Cities of Crown Point and Whiting, the Towns of Highland and Munster, and the Townships of Hanover and Winfield.

This decontrols the Cities of East Chicago, Hammond and Hobart in Lake County, Indiana, portions of the Gary-Hammond, Indiana, Defense-Rental Area.

5. Schedule A, Item 149, is amended to describe the counties in the defense-rental area as follows:

Oakland County, except (i) the Townships of Addison, Avon, Bloomfield, Brandon, Commerce, Farmington, Groveland, Highland, Holly, Independence, Milford, Novi, Oakland, Orion, Oxford, Pontiac, Rose, Springfield, Troy, Waterford and West Bloomfield, (ii) the Villages of Clarkston, Holly, Lake Orion, Leonard, Milford, Ortonville, Oxford, Rochester and that portion of Northville located in Oakland County, and (iii) the Cities of Berkley, Birmingham, Bloomfield Hills, Clawson, Farmington, Ferndale, Hazel Park, Pleasant Ridge, Pontiac, Royal Oak, South Lyon and Sylvan Lake; Wayne County, except (i) the Cities of Belleville, Ecorse, Garden City, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, Grosse Pointe Woods, Lincoln Park, Livonia, Melvindale, Plymouth and River Rouge, (ii) the Villages of Allen Park, Flat Rock, Grosse Pointe Shores, Inkster, Rockwood, Trenton and Wayne, (iii) that portion of the Village of Northville located in Wayne County, and (iv) the Townships of Brownstown, Canton, Ecorse, Grosse Ile, Huron, Nankin, Northville, Plymouth, Romulus, Sumpter, Taylor and Van Buren; and Macomb County, except the Cities of East Detroit and Mount Clemens, the Villages of Fraser and Roseville, and the Townships of Armada, Bruce, Harrison, Lenox, Macomb, Ray, Richmond, Shelby, Sterling and Washington.

This decontrols the City of Ecorse in Wayne County, Michigan, a portion of the Detroit, Michigan, Defense-Rental Area.

6. Schedule A, Item 160, is amended to describe the counties in the defense-rental area as follows:

Anoka, Dakota and Hennepin Counties; Ramsey County, except the City of White Bear Lake, the Town of White Bear, and the Village of New Brighton; and Washington County, except the City of Stillwater, and the Village of Bayport.

This decontrols the Town of White Bear in Ramsey County, Minnesota, a portion of the Minneapolis-St. Paul, Minnesota, Defense-Rental Area.

7. Schedule A, Item 228, is amended to describe the counties in the defense-rental area as follows:

Cuyahoga County, except the Cities of Bedford, Berea, Shaker Heights and University Heights, and the Villages of Bay, Beachwood, Bentleyville, Bratenahl, Brecksville, Brooklyn Heights, Chagrin Falls, Gates Mills, Highland Heights, Hunting Valley, Independence, Lyndhurst, Mayfield Heights, Moreland Hills, North Olmsted, North Royalton, Oakwood, Orange, Parkview, Pepper Pike, Seven Hills, Solon, Strongsville, Valley View, Warrensville Heights, Westlake and West View.

This decontrols the Village of Brooklyn Heights in Cuyahoga County, Ohio, a portion of the Cleveland, Ohio, Defense-Rental Area.

8. Schedule A, Item 229, is amended to describe the counties in the defense-rental area as follows:

Franklin County, except the City of Upper Arlington, the Villages of Riverlea, Westerville and Worthington, and that part of the Village of Canal Winchester located in Franklin County.

In Licking County, the City of Newark and the Townships of Madison and Newark.

This decontrols the Villages of Riverlea and Westerville in Franklin County, Ohio, portions of the Columbus, Ohio, Defense-Rental Area.

9. Schedule A, Item 237, is amended to describe the counties in the defense-rental area as follows:

Portage County, except the Cities of Kent and Ravenna, and the Villages of Aurora and Mantua.

This decontrols the Village of Mantua in Portage County, Ohio, a portion of the Ravenna, Ohio, Defense-Rental Area.

All decontrols effected by these amendments are based on resolutions submitted under section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 52-8320; Filed, July 29, 1952; 8:47 a. m.]

[Rent Regulation 3, Amdt. 73 to Schedule A, Correction]

[Rent Regulation 4, Amdt. 17 to Schedule A, Correction]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CALIFORNIA

In Amendment 73 to Schedule A of Rent Regulation 3 and Amendment 17 to Schedule A of Rent Regulation 4, the sentence which reads, "Effective July 23, 1952, Rent Regulation 1 and Rent Regulation 2 are amended as set forth below.", is corrected to read as follows: "Effective July 23, 1952, Rent Regulation 3 and Rent Regulation 4 are amended as set forth below."

This correction is effective July 23, 1952.

Issued this 25th day of July 1952.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 52-8322; Filed, July 29, 1952; 8:47 a. m.]

[Rent Regulation 3, Amdt. 74 to Schedule A]

[Rent Regulation 4, Amdt. 18 to Schedule A]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CALIFORNIA AND INDIANA

Effective July 30, 1952, Rent Regulation 3 and Rent Regulation 4 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 25th day of July 1952.

TIGHE E. WOODS,
Director of Rent Stabilization.

1. Schedule A, Item 33a, is amended to describe the counties in the defense-rental area as follows:

In Monterey County, the Townships of Alisal, Castroville, Gonzales, Pajaro and Monterey, except the Cities of Carmel-by-the-Sea, Monterey, Pacific Grove and Salinas; in Santa Cruz County, the Township and City of Watsonville; in San Benito County, the Townships of Hollister and San Juan.

This decontrols the Cities of Monterey and Pacific Grove in Monterey County, California, portions of the Monterey Bay, California, Defense-Rental Area.

2. Schedule A, Item 102, is amended to describe the counties in the defense-rental area as follows:

Lake County, except the Cities of East Chicago, Hammond and Hobart, and the Townships of Cedar Creek, Eagle Creek and West Creek.

This decontrols the Cities of East Chicago, Hammond and Hobart in Lake County, Indiana, portions of the Gary-Hammond, Indiana, Defense-Rental Area.

All decontrols effected by these amendments are based on resolutions submitted under section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 52-8321; Filed, July 29, 1952; 8:47 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

MISCELLANEOUS AMENDMENTS

1. In Part 6, § 6.2 (a) is amended to read as follows:

§ 6.2 *Applications for insurance under section 5 of the Servicemen's Indemnity Act of 1951 (Pub. Law 23, 82d Cong.).* (a) Any person who, while in the active service on or after April 25, 1951, surrenders a permanent plan of United States Government life insurance which is in force other than as extended term insurance, for its cash value under the provisions of § 6.115, or under § 6.186 if the policy has no cash value, shall be granted a new policy of United States Government life insurance as provided in § 6.3 (a) upon written application signed by the applicant and payment of the required premium within 120 days after separation from such active service. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * *

2. A new centerhead immediately preceding § 6.3 is added as follows: "United States Government Life Insurance Issued Pursuant to Section 5 of the Servicemen's Indemnity Act."

3. In § 6.3, paragraph (a) is amended to read as follows:

§ 6.3 *United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951.* (a) United States Government life insurance on a permanent plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, shall be issued on the same plan and under the same terms and conditions as United States Government life insurance surrendered under the provisions of such section. The amount of permanent plan United States Government life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951 shall not be in excess of the amount of insurance surrendered under such section.

* * * * *

4. In § 6.86, paragraph (a) is amended to read as follows:

§ 6.86 *Applications for reinstatement of United States Government life insurance pursuant to section 5 of the Servicemen's Indemnity Act of 1951.* (a) Any person who, while in the active service on or after April 25, 1951, surrenders a permanent plan policy of United States Government life insurance which is in force other than as extended term insurance, for its cash value under the provisions of § 6.115, or under § 6.186, if the policy has no cash value, upon written application made by any such person within 120 days after separation from such active service, may reinstate such surrendered United States Government life insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of (1) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (2) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * *

5. A new centerhead immediately following § 6.185 is added as follows: "Surrender Under Section 5, Public Law 23, 82d Congress of Permanent Plan Policies in Force Less Than One Year"

6. A new § 6.186 is added as follows:

§ 6.186 *Surrender of permanent plan policies of United States Government life insurance, in force for less than one year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.* A permanent plan policy of United States Government life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which is not lapsed may be surrendered by the insured while in active service, with right of replacement, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, upon written request therefor and upon complete surrender of the policy with all claims thereunder: *Provided,* That such surrender shall be effective as of the date written request therefor is delivered to the Veterans' Administration. If forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery; if forwarded through military channels, the date the request is placed in military channels will be taken as the day of delivery. (Pub. Law 23, 82d Cong.)

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 6, Pub. Law 23, 82d Cong.; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 300, 301, 43 Stat. 624, as amended; 38 U. S. C. 511, 512)

7. In Part 8, § 8.0 (d) (1) is amended to read as follows:

§ 8.0 *Eligibility.* * * *

(d) *Applications for insurance under section 5, of the Servicemen's Indemnity Act of 1951 (Pub. Law 23, 82d Cong.).* (1) Any person who, while in the active service on or after April 25, 1951, surrenders a permanent plan of National Service life insurance which is not lapsed, for its cash value under the provisions of § 8.27 (a) or (b), or under § 8.114, if the policy has no cash value, shall be granted a new policy of National Service life insurance as provided in § 8.110 (a) upon written application signed by the applicant and payment of the required premium within 120 days after separation from such active service. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * *

8. In § 8.22, paragraph (b) (1) is amended to read as follows:

§ 8.22 *Reinstatement of National Service life insurance.* * * *

(b) *Applications for reinstatement of insurance pursuant to section 5 of the Servicemen's Indemnity Act of 1951.* (1) Any person who, while in the active service on or after April 25, 1951, surrenders a permanent plan policy of National Service life insurance which is not lapsed, for its cash value under the provisions of § 8.27 (a) or (b), or under § 8.114, if the policy has no cash value, upon written application made by any such person within 120 days after separation from such active service, may reinstate such surrendered National Service life insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of (i) an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made and (ii) the full premium on the amount of insurance for the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application.

* * * * *

9. In § 8.110, paragraph (a) is amended to read as follows:

§ 8.110 *National Service life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951.* (a) National Service life insurance on a permanent plan, issued pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951 shall be issued on the same plan and under the same terms and conditions as National Service life insurance surrendered under the provisions of such section: *Provided,* That waiver of premiums under section 602 (n) of the National Service Life Insurance Act, as amended, shall not be denied because the total disability of the applicant commenced prior to the date of his application for such insurance.

The amount of permanent plan National Service life insurance issued pursuant to section 5 of the Servicemen's Indemnity Act of 1951 shall not be in excess of the amount of insurance surrendered under such section.

* * * * * *

10. In § 8.112, paragraph (a) is amended to read as follows:

§ 8.112 *National Service life insurance issued under section 621 of the National Service Life Insurance Act, as amended April 25, 1951.* (a) National Service life insurance granted under the provisions of section 621 of the National Service Life Insurance Act, as amended, shall be issued upon the same terms and conditions as are contained in the standard policies of National Service life insurance on the 5-year level premium term plan except (1) all such insurance may be renewed for successive 5-year term periods at the attained ages in accordance with the provisions of § 8.86 but may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality with interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of the annuity table for 1949, with interest at the rate of 2¼ per centum per annum; and (4) insurance issued under this section of the act shall be nonparticipating.

* * * * *

11. A new centerhead immediately following § 8.113 is added as follows: "Surrender Under Section 5 of Public Law 23, 82d Congress of Permanent Plan Policies in Force Less Than One Year."

12. A new § 8.114 is added as follows:

§ 8.114 *Surrender of permanent plan policies of National Service life insurance in force for less than one year, under the provisions of section 5, Servicemen's Indemnity Act of 1951.* (a) A permanent plan policy of National Service life insurance in force for less than 1 year by payment or waiver of premiums shall not have a cash value. Such a policy which is not lapsed may be surrendered by the insured while in active service, with right of replacement, pursuant to the provisions of section 5 of the Servicemen's Indemnity Act of 1951, upon written request therefor and upon complete surrender of the policy with all claims thereunder: *Provided,* That such surrender shall be effective as of the date written request therefor is delivered to the Veterans' Administration. If forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery; if forwarded through military channels, the date the request is placed in military channels will be taken as the day of delivery.

(Pub. Law 23, 82d Cong.)

(Sec. 608, 54 Stat. 1012, as amended, sec. 6, Pub. Law 23, 82d Cong.; 38 U. S. C. 808. Interpret or apply sec. 602, 54 Stat. 1009, as amended; 38 U. S. C. 802)

This regulation effective July 30, 1952.

[SEAL] H. V. STIRLING,
Deputy Administrator.

[F. R. Doc. 52-8326; Filed, July 29, 1952; 8:48 a. m.]

Chapter II—Veterans' Education Appeals Board

PART 200—RULES OF PRACTICE

MISCELLANEOUS AMENDMENTS

The Board, pursuant to authority vested in it by the Veterans' Education and Training Amendments of 1950, Public Law 610, 81st Congress, approved July 13, 1950, particularly section 2 thereof, and finding such action necessary and appropriate for carrying out the provisions of the said act, hereby adopts, promulgates, and prescribes the accompanying additions and revision to its Rules of Practice, effective on and after August 1, 1952:

1. Section 200.37 is revised as follows:

§ 200.37 *Effect of initial decision.* The initial decision shall become the final decision of the Board 40 days after date of issuance of the initial decision, unless

(a) Either of the parties files an appeal therefrom under Rule 38 within 30 days from date of issuance or within such additional time as may be granted by the Board for good cause shown, or

(b) The Board shall, within 40 days from date of issuance, issue an order staying the effective day of the decision or place the case on its own docket for review.

2. A new § 200.43 is added as follows:

§ 200.43 *Petition for rehearing.* Whenever either party desires to question the correctness or sufficiency of the Board's decision, or to amend same, the complaining party must file a petition for rehearing, in quadruplicate, within 15 days from receipt of the decision. All grounds relied upon shall be included in one petition and be accompanied by brief. A petition founded on error of fact shall specify the fact or facts which are regarded as erroneously found, or omitted, with full reference to the record. If founded on error of law the petition shall specify points which the Board is supposed to have erred, with references to authorities relied upon to support the petition. A petition upon the ground of newly discovered evidence shall not be entertained unless it appears therein that the newly discovered evidence came to the knowledge of the party filing the petition after hearing on merits; that it was not for want of due diligence that such evidence did not sooner come to its knowledge; that it is so material that it would probably produce a different decision if a rehearing is granted; and that it is not cumulative. A petition upon the grounds of newly discovered evidence shall be accompanied by an affidavit of the party setting forth the facts in detail which the petitioner expects to be able to prove, the name, occupation, and residence of each witness and the identity of documents; and why such facts could not have been discovered before the hearing by due diligence. A petition for rehearing shall be served by the Board upon the opposite party, who may file response thereto within 20 days unless such time is extended. The petition and response, if any, shall thereafter be considered by the Board in conference, and will there be decided or scheduled for argument and/or for rehearing.

3. A new § 200.44 is added as follows:

§ 200.44 *Inspection of Board's decisions and rulings.* All rulings and final decisions of the Board are available for inspection at the office of the Board and at the various Regional Offices of the Veterans' Administration as listed in Appendix II, Section 1 of this part.

(64 Stat. 338; 38 U. S. C. Chap. 12 note)

Approved: July 11, 1952.

By the Board.

[SEAL] F. J. LONG,
Executive Officer.

[F. R. Doc. 52-8327; Filed, July 29, 1952; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 55]

SAMPLING, GRADING, GRADE LABELING, AND SUPERVISION OF PACKAGING OF EGGS AND EGG PRODUCTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Department is considering, pursuant to the authority contained in the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451, 82d Cong., approved July 5, 1952) or any other act conferring similar authority, an amendment to the regulations (7 CFR Part 55) governing the sampling, grading, grade labeling, and supervision of packaging of eggs and egg products.

The proposed amendment grants the Administrator a greater discretion in the rejection of applications for grading, inspection or sampling service and in the denial of such service to persons presently receiving such service. The proposed amendment is deemed necessary in order to protect and maintain the integrity of, and maintain public confidence in, the grading, inspection and sampling service. Sections 55.11 and 55.56 are being amended, and § 55.59 is being deleted and its provisions amended and included in § 55.56.

All persons who desire to submit written data, views or arguments with respect to the proposed amendment

should file the same with the Director, Poultry Branch, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

The proposed amendment is as follows:

1. Amend § 55.11 *When application may be rejected;* to read as follows:

§ 55.11 *When application may be rejected.* Any application for grading service, inspection service or sampling service may be rejected by the Administrator (a) for noncompliance with the act or the regulations in this part by the applicant, or by any individual holding office or a responsible position with, or having any interest or share in the applicant; (b) whenever the product involved is owned by, or located on the premises of, a person currently denied the benefits of the act; (c) where any individual holding office or a responsible position with, or having any interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; or (d) where he determines that the application is a subterfuge on the part of a person currently denied the benefits of the act to obtain grading, inspection or sampling service. Each such applicant shall be notified promptly of the reasons for the rejection.

2. Amend § 55.56 to read as follows:

§ 55.56 *Denial of service.* (a) The following acts or practices may be deemed sufficient cause for the debarment of any person by the Administrator from any or all benefits of the act after opportunity for hearing has been accorded him:

(1) *Misrepresentation, deceptive or fraudulent act or practice.* Any misrepresentation or deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of any application for any grading service, inspection service or sampling service, appeal or regrading service;

(ii) The making of the product accessible for sampling or inspection;

(iii) The use of any grading certificate or inspection certificate issued pursuant to the regulations in this part, or the use of any official stamp, label or identification;

(iv) The use of the terms "United States" or "U. S." in conjunction with the grade of the product; or

(v) The use of any of the aforesaid terms or an official stamp, label or identification in the labeling or advertising of any product.

(2) *Use of facsimile forms.* The unauthorized use of a facsimile form which simulates, in whole or in part, any official certificate, stamp, label or identification authorized to be issued or used under the regulations in this part to evidence the inspection or grade of any product.

(3) *Wilful violation of regulations.* Any wilful violation of the regulations in this part or of any of the supplementary rules and instructions issued thereunder by the Administrator.

(4) *Interfering with a grader or inspector.* (i) Any interference with or obstruction of any inspector or grader in the performance of his duties by intimidation, threats, bribery, ridicule, assault or any other improper means by any person, personally or by an employee, agent or representative.

(ii) The payment by any person, personally or by an employee, agent, or representative, of any gift or gratuity to any inspector or grader for any purpose.

(5) *Misleading labeling or advertising.* The use of the terms "Government graded," "Federal-State graded," or terms of similar import in the labeling or advertising of any product without stating in the label or advertising the U. S. grade of the product as determined by an authorized grader.

(6) *Conduct reflecting on integrity of grading or inspection service.* (i) Any misrepresentation or deceptive or fraudulent act or practice in connection with any product handled or processed in a plant where grading, inspection or sampling service is supplied, irrespective of whether the misrepresentation or deceptive or fraudulent act or practice was made or committed in connection with a product inspected, graded or sampled by such service.

(ii) The existence of any of the circumstances set forth in § 55.11 constituting a basis for the rejection of an application for grading, inspection or sampling service.

(b) Whenever the Administrator has reason to believe that any person, or his employee, agent or representative, has flagrantly or repeatedly committed any of the acts or practices specified in paragraph (a) of this section, he may, without hearing, direct that the benefits of the act be denied such person pending investigation and hearing.

3. Delete § 55.59 *Interfering with a grader, inspector or sampler.*

(Pub. Law 451, 82d Cong., approved July 5, 1952)

Issued at Washington, D. C., this 25th day of July 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

[F. R. Doc. 52-8334; Filed, July 29, 1952; 8:49 a. m.]

[7 CFR Part 70]

GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF AND UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Department is considering, pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451, 82d Cong., approved July 5, 1952) or any other act conferring similar authority, an amendment to the regulations (7 CFR Part 70) governing the grading and inspection of poultry and edible products thereof and United States classes, standards, and grades with respect thereto.

The proposed amendment grants the Administrator a greater discretion in the rejection of applications for grading or inspection service and in the denial of such service to persons presently receiving such service. The proposed amendment is deemed necessary in order to protect and maintain the integrity of, and maintain public confidence in, the grading and inspection service. Sections 70.6 and 70.7 are being amended and § 70.8 is being deleted, and its provisions amended and included in § 70.7.

All persons who desire to submit written data, views, or arguments with respect to the proposed amendment should file the same with the Director, Poultry Branch, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C., not later than 10 days following publication of this notice in the FEDERAL REGISTER.

The proposed amendment is as follows:

1. Amend paragraph (f) of § 70.6 *Applying for grading service or inspection service,* to read as follows:

(f) *Rejection of application.* Any application for grading service or inspection service may be rejected by the Administrator (1) for noncompliance with the act or the regulations in this part by the applicant, or by any individual holding office or a responsible position with, or having any interest or share in the applicant; (2) whenever the product involved is owned by, or located on the premises of, a person currently denied the benefits of the act; (3) where any individual holding office or a responsible position with, or having any interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; or (4) where he determines that the application is a subterfuge on the part of a person currently denied the benefits of the act to obtain grading or inspection service. Each such applicant shall be notified promptly of the reasons for the rejection.

2. Amend § 70.7 to read as follows:

§ 70.7 *Denial of service.* (a) The following acts or practices may be deemed sufficient cause for the debarment of any person by the Administrator from any or all benefits of the act after opportunity for hearing has been accorded him:

(1) *Misrepresentation, deceptive or fraudulent act or practice.* Any misrepresentation or deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of any application for any grading service or inspection service, appeal or regrading service;

(ii) The making of the product accessible for sampling or inspection;

(iii) The use of any grading certificate or inspection certificate issued pursuant to the regulations in this part, or the

use of any official stamp, label or identification;

(iv) The use of the terms "United States or "U. S." in conjunction with the grade of the product; or

(v) The use of any of the aforesaid terms or an official stamp, label or identification in the labeling or advertising of any product.

(2) *Use of facsimile forms.* The unauthorized use of a facsimile form which simulates, in whole or in part, any official certificate, stamp, label or identification authorized to be issued or used under the regulations in this part to evidence the inspection or grade of any product.

(3) *Wilful violation of regulations.* Any wilful violation of the regulations in this part or of any of the supplementary rules and instructions issued thereunder by the Administrator.

(4) *Interfering with a grader or inspector.* (i) Any interference with or obstruction of any inspector or grader in the performance of his duties by intimidation, threats, bribery, ridicule, assault or any other improper means by any person, personally or by an employee, agent or representative.

(ii) The payment by any person, personally or by an employee, agent or representative, of any gift or gratuity to any inspector or grader for any purpose.

(5) *Misleading labeling or advertising.* The use of the terms "Government graded," "Federal-State graded," or terms of similar import in the labeling or advertising of any product without stating in the label or advertising the U. S. grade of the product as determined by an authorized grader.

(6) *Conduct reflecting on integrity of grading or inspection service.* (i) Any misrepresentation or deceptive or fraudulent act or practice in connection with any product handled or processed in a plant where grading or inspection service is supplied, irrespective of whether the misrepresentation or deceptive or fraudulent act or practice was made or committed in connection with a product inspected or graded by such service.

(ii) The existence of any of the circumstances set forth in § 70.6 (f) constituting a basis for the rejection of an application for grading or inspection service.

(b) Whenever the Administrator has reason to believe that any person, or his employee, agent or representative, has flagrantly or repeatedly committed any of the acts or practices specified in paragraph (a) of this section, he may, without hearing, direct that the benefits of the act be denied such person pending investigation and hearing.

3. Delete § 70.8 *Interfering with a grader or inspector.*

(60 Stat. 1087; 7 U. S. C. 1621; Pub. Law 451, 82d Cong.)

Issued at Washington, D. C., this 25th day of July 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

[F. R. Doc. 52-8337; Filed July 29, 1952; 8:49 a. m.]

[7 CFR Part 935]

[Docket No. AO 88-A9]

HANDLING OF MILK IN THE OMAHA-LINCOLN-COUNCIL BLUFFS MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900) a public hearing was conducted at Omaha, Nebraska, on March 26 and 27, 1952, pursuant to notice thereof which was issued on March 5, 1952 (17 F. R. 2066) upon proposed amendments to the marketing agreement and to the order, as amended, regulating the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on June 27, 1952, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on July 3, 1952 (17 F. R. 6003).

Exceptions to the recommended decision were filed on behalf of certain interested parties in the marketing area. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of these exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and actions decided herein are at variance with the exceptions such exceptions are overruled.

The major issues developed at the hearing were concerned with:

1. Whether the marketing area should be expanded to include the cities of Lincoln, York and Fremont, Nebraska, and certain areas contiguous to the city of Lincoln;
2. Revision of definitions of handler and producer;
3. Revision of the classification of milk;
4. Revision of transfer provisions;
5. Revision of class prices;
6. Adoption of seasonal prices to producers;
7. Modification of the emergency milk provisions;
8. Inclusion of location differentials to producers and handlers;
9. Application of administrative assessment to other source milk and emergency milk; and
10. Revision of the administrative provisions of the order.

Findings and conclusions. The findings and conclusions of the recommended decision set forth in the FEDERAL REGISTER (17 F. R. 6003) are hereby approved and adopted as the findings and conclusions of this decision as if set forth in full herein.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Omaha-Lincoln-Council Bluffs Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Omaha-Lincoln-Council Bluffs Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 25th day of July 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

Order [1] Amending the Order, as Amended, Regulating the Handling of Milk in the Omaha-Lincoln-Council Bluffs Marketing Area

§ 935.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendments to the marketing agreement and to the order, as amended, regulating the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factions, insure a sufficient quantity of pure and wholesome milk and be in the public interest, and

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(4) All milk and milk products delivered by handlers, as defined herein, are in the current of interstate or foreign commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(5) It is hereby found that the expense of the market administrator for the maintenance and functioning of such agency will require the payment monthly by each handler, as his pro rata share of such expenses, two cents per hundredweight, or such amount not exceeding two cents per hundredweight as the Secretary may prescribe, with respect to all milk received by him during the month from producers (including such handler's own production) and with respect to other source milk and emergency milk received by him during such month which is classified as Class I.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 935.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1940 ed., 601 et seq.).

§ 935.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

§ 935.3 *Omaha - Lincoln - Council Bluffs Marketing Area.* "Omaha-Lincoln-Council Bluffs Marketing Area," hereinafter called "marketing area" means the territory within the corporate limits of the cities of Omaha, and Lincoln, Nebraska, and Council Bluffs, Iowa; within Kane, Lake, Garner and Lewis townships in Pottawattamie County, Iowa; within Florence, Union, McArdle, Moorhead, McHugh, Benson, Beechwood, Pershing, Dundee, Loveland, Boystown, Ralston, Ashland and May precincts in Douglas County, Nebraska; within Gilmore, Highland and Bellevue precincts in Sarpy County, Nebraska; within West Lincoln precinct including the Lincoln Air Base, and the Veterans' Administration Hospital in Lancaster precinct, both in Lancaster County, Nebraska.

§ 935.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 935.5 *Producer.* "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at an approved plant: *Provided,* That such milk is (a) produced under a dairy farm permit or rating issued by a municipal or state health authority having jurisdiction in the marketing area for the production of milk to be disposed for consumption as Grade A milk, or (b) acceptable to a Federal agency located within the marketing area. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted to an unapproved plant by a handler and milk so diverted shall be deemed to have been received at an approved plant by the handler who caused it to be diverted. This definition shall not include a person with respect to milk produced by him which is received by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 935.56.

§ 935.6 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant(s), and (b) a cooperative association with respect to milk which it causes to be delivered from a producer to an approved plant or which it causes to be diverted to an unapproved plant for the account of such cooperative association, and such milk shall be deemed to have been received at an approved plant by the cooperative association. In the case of recognized divisions of a corporation which are operated as separate business units each such division shall be deemed to be a handler.

§ 935.7 *Approved plant.* "Approved plant" means (a) any milk processing plant from which skim milk and butterfat are disposed of as Class I milk (1) to any Federal agency located within the marketing area, or (2) on wholesale or retail routes (including plant stores) within the marketing area under a Grade A permit issued by any municipal or state health authority having jurisdiction in the marketing area, or (b) a plant which is under regular inspection by one or more of the several health authorities having jurisdiction in the marketing area, which is approved by such authority for the receiving of Grade A milk, and from which Grade A milk is regularly disposed of to plants described in paragraph (a) (2) of this section for Class I use.

§ 935.8 *Unapproved plant.* "Unapproved plant" means any milk processing plant other than an approved plant.

§ 935.9 *Producer-handler.* "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers or associations of producers: *Provided,* That the maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 935.10 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines (a) has its entire activities under the control of its members, and (b) has and is exercising full authority in the sale of milk of its members.

§ 935.11 *Producer milk.* "Producer milk" means any skim milk or butterfat which is produced by a producer, other than a producer-handler, and which is received by a handler either directly from producers or from other handlers.

§ 935.12 *Other source milk.* "Other source milk" means any skim milk or butterfat other than that contained in producer milk or emergency milk.

§ 935.13 *Emergency milk.* "Emergency milk" means skim milk or butterfat other than that in producer milk which is received by a handler under the conditions and subject to the limitations prescribed in § 935.45.

§ 935.14 *Butter price.* "Butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the United States Department of Agriculture during the delivery period.

MARKET ADMINISTRATOR

§ 935.20 *Designation.* The agency for the administration of this subpart shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 935.21 *Powers.* The market administrator shall have the power to:

(a) Administer the terms and provisions of this subpart;

(b) Report to the Secretary complaints of violations of the provisions of this subpart;

(c) Make rules and regulations to effectuate the terms and provisions of this subpart; and

(d) Recommend to the Secretary amendments to this subpart.

§ 935.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties in an amount and with surety thereon satisfactory to the Secretary;

(b) Pay out of the funds provided by § 935.73 the cost of his bond, his own compensation and all other expenses necessarily incurred in the maintenance and functioning of his office;

(c) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and surrender the same to his successor or to such other person as the Secretary may designate;

(d) Unless otherwise directed by the Secretary, publicly disclose to handlers and producers the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (1) made reports pursuant to § 935.30 or (2) made payments pursuant to §§ 935.65 and 935.69;

(e) Promptly verify the information contained in reports submitted by handlers;

(f) Publicly announce by such means as he deems appropriate the prices determined for each delivery period as follows:

(1) On or before the 3d day after the end of each delivery period, the minimum class prices computed pursuant to § 935.51, and the butterfat differential computed pursuant to § 935.66;

(2) On or before the 9th day after the end of each delivery period, the uniform price computed pursuant to § 935.61.

(g) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 935.30 *Delivery period report of receipts and utilization.* On or before the 7th day after the end of each delivery period, each handler, who purchases or receives milk from producers or associations of producers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The respective quantities of skim milk and butterfat contained in producer milk, other source milk (except products disposed of in the form in which received without further processing or packaging in the plant of the handler), and emergency milk received during the delivery period;

(b) The quantities of skim milk and butterfat contained in the opening and closing inventories;

(c) The utilization of all skim milk and butterfat reported pursuant to paragraphs (a) and (b) of this section; and

(d) Such other information with respect to such receipts and utilization as the market administrator may request.

§ 935.31 *Mid-delivery period reports.* On or before the 22d day of each delivery period each handler shall report to the market administrator the pounds of milk received by him from each producer or association of producers during the first 15 days of the delivery period.

§ 935.32 *Reports of payments to producers.* On or before the 17th day after the end of each delivery period, each handler shall submit to the market administrator his producer payroll for the delivery period which shall show for each producer:

(a) The total pounds of milk received and the average butterfat content thereof;

(b) The price, amount, and date of payment made pursuant to § 935.65; and

(c) The nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this section.

§ 935.33 *Producer-handler and other handler reports.* Each producer-handler and each handler who receives milk only from other handlers which are not cooperative associations shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 935.34 *Records and facilities.* Each handler shall maintain and make available to the market administrator, or his representative, during the usual hours of business, such accounts and records of his operations, including those of any other person upon whose utilization the classification of milk depends, and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The receipts and utilization in whatever form of all skim milk and butterfat required to be reported pursuant to § 935.30;

(b) The weights and tests for butterfat and other contents of all milk and milk products received or utilized; and

(c) Payments to producers or cooperative associations.

§ 935.35 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period the market administrator notifies the handler in writing that the retention of such records or of specific books and records is necessary in connection with the proceedings under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 935.40 *Skim milk and butterfat to be classified.* Skim milk and butterfat contained in all milk, skim milk, cream and milk products required to be reported pursuant to § 935.30, which during the delivery period were received by a handler at an approved plant or caused by a cooperative association to be diverted to an unapproved plant shall be classified by the market administrator in the classes set forth in § 935.41.

§ 935.41 *Classes of utilization.* Subject to the conditions set forth in §§ 935.43, 935.44, and 935.47, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, yogurt, flavored milk, flavored milk drinks, cream, either sweet or sour (including any mixture of butterfat and skim milk containing more than 6 percent butterfat except mixes for ice cream and frozen desserts) and eggnog, (2) used in the production of concentrated milk, not sterilized, for fluid consumption, and (3) not specifically accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat (1) used to produce a milk product not specified in paragraph (a) of this section, (2) in shrinkage up to 2 percent of receipts from producers and cooperative associations and of emergency milk, and (3) in shrinkage of other source milk.

§ 935.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler.

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in (1) producer milk and emergency milk, and (2) other source milk.

§ 935.43 *Responsibility of handlers and reclassification of milk.* (a) In establishing the classification of skim milk and butterfat as required in § 935.41, the burden rests upon the handler who received such skim milk or butterfat from producers or cooperative associations to prove to the market administrator that such skim milk or butterfat should not be classified as Class I.

(b) Any skim milk or butterfat which has been classified by the market administrator shall be reclassified if verification discloses that the original classification was incorrect.

§ 935.44 *Transfers.* (a) Skim milk and butterfat when transferred or diverted by a handler which is not a cooperative association from an approved plant to an approved plant of another handler who receives milk from producers or from a cooperative association shall be Class I if transferred in the form of milk, skim milk or cream: *Provided,* That if the selling handler, on or before the 7th day after the end of the delivery period during which such transfer is made, furnishes the market administrator with a statement signed by the buyer indicating that such skim milk or butterfat was used in a different class, such skim milk or butterfat may be assigned to the indicated class up to the amount thereof remaining in such class in the plant of the buyer after the subtraction of receipts of other source milk.

(b) Skim milk and butterfat when transferred or diverted by a handler to a producer-handler shall be Class I if transferred or diverted in the form of milk, skim milk or cream.

(c) Skim milk and butterfat which is caused to be delivered from producers to an approved plant by a cooperative

association which is a handler for the account of such cooperative association shall be ratably apportioned over the receiving handler's total utilization of producer milk.

(d) Skim milk and butterfat when transferred from an approved plant to an unapproved plant located more than 150 miles from the marketing area shall be Class I if transferred in the form of milk, skim milk, or cream.

(e) Skim milk and butterfat when transferred or diverted from an approved plant to an unapproved plant located less than 150 miles from the marketing area shall be Class I if transferred in the form of milk, skim milk, or cream unless the transferring handler reports that such skim milk or butterfat was used in Class II: *Provided,* That if the buyer refuses to permit the market administrator to audit his books and records, such milk, skim milk or cream shall be classified as Class I: *Provided further,* That if upon audit of the buyer's records it is found that the use of skim milk and butterfat in the buyer's plant in Class II is less than the amount stated to have been so used, any amount in excess of such Class II use shall be classified as Class I.

(f) Skim milk and butterfat received by a handler as other source milk shall, except as provided in § 935.57, be classified in the lowest class in which such handler has use.

(g) Skim milk and butterfat received by a handler as emergency milk shall be ratably apportioned over the receiving handler's total utilization of milk.

(h) Skim milk and butterfat of a handler's own production shall be ratably apportioned over such handler's total utilization of producer milk.

§ 935.45 *Emergency milk.* In any delivery period in which the market administrator determines that the supply of skim milk or butterfat in producer milk available to any handler is insufficient for such handler's disposition of Class I milk, skim milk and butterfat other than that in producer milk which is received by a handler and which is permitted by a health authority having jurisdiction in the marketing area to be disposed of as Grade A milk shall be considered emergency milk up to an amount equal to the difference between the receipts of skim milk or butterfat in producer milk by such handler and 107 percent of his total disposition of skim milk or butterfat in Class I milk.

§ 935.46 *Computation of skim milk and butterfat in each class.* For each delivery period the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class for such handler.

§ 935.47 *Allocation of skim milk and butterfat classified.* After computing, pursuant to § 935.46, the classification of all skim milk and butterfat received by a handler, the market administrator shall determine the classification of milk received from producers in the following manner.

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk allocated to shrinkage of producer milk;

(2) Subtract from the pounds of skim milk in Class I the pounds of skim milk in other source milk allocated to Class I pursuant to § 935.57;

(3) Subtract from the remaining pounds of skim milk in Class II the remaining pounds of skim milk in other source milk: *Provided,* That, if the pounds of skim milk in such other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from Class I;

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk contained in receipts from other handlers in accordance with its classification as determined pursuant to § 935.44 (a);

(5) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk contained in (i) milk of the handler's own production, (ii) emergency milk, and (iii) milk received from a cooperative association which is a handler;

(7) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers an amount equal to the difference shall be subtracted from the pounds of skim milk in Class II. Any amount in excess of that in Class II shall be subtracted from Class I. The amounts so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 935.50 *Basic price to be used in computing the Class I price.* The basic price to be used in computing the minimum price per hundredweight of Class I milk for each delivery period shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section.

(a) The average of the basic or field prices reported to have been paid for milk of 3.5 percent butterfat content received during the preceding delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture, divided by 3.5, and multiplied by 3.8, and adjusted to the nearest cent:

Present Operator of Plant and Location of Plant

Amboy Milk Products Co., Amboy, Ill.
Borden Co., Dixon, Ill.
Borden Co., Sterling, Ill.
Carnation Co., Northfield, Minn.
Carnation Co., Morrison, Ill.
Carnation Co., Oregon, Ill.
Carnation Co., Waverly, Iowa.
Dean Milk Co., Pecatonica, Ill.
Fort Dodge Creamery Co., Fort Dodge, Iowa.
Pet Milk Co., Shullsburg, Wis.
United Milk Products Co., Argo Fay, Ill.

(b) The price computed pursuant to § 935.51 (b) for the preceding delivery period for Class II milk containing 3.8 percent butterfat plus 15 cents.

§ 935.51 *Class prices.* Subject to the provisions of §§ 935.52 and 935.53 the minimum prices per hundredweight to be paid by each handler for milk received by him from producers or from a cooperative association during the delivery period shall be as follows:

(a) *Class I milk.* The price per hundredweight of Class I milk containing 3.8 percent butterfat shall be the basic price computed pursuant to § 935.50 plus $1.40.

(1) The price per hundredweight of butterfat in Class I shall be computed by adding $28.00 to the price computed pursuant to paragraph (b) (1) of this section for the preceding delivery period.

(2) The price per hundredweight of skim milk in Class I shall be computed by (i) multiplying by 0.038 the price computed pursuant to subparagraph (1) of this paragraph, (ii) subtracting the result from the price computed pursuant to this paragraph for Class I milk containing 3.8 percent butterfat, (iii) dividing the result by 0.962, and (iv) adjusting to the nearest cent.

(b) *Class II milk.* The price per hundredweight of Class II milk containing 3.8 percent butterfat shall be that computed by multiplying by 3.8 the price computed pursuant to subparagraph (1) (iii) of this paragraph and adding thereto the amount computed pursuant to subparagraph (2) (i) of this paragraph.

(1) The price per hundredweight of butterfat in Class II milk shall be computed by (i) multiplying the butterfat price by 1.25, (ii) subtracting 8 cents, (iii) adjusting to the nearest cent, and (iv) multiplying the result by 100.

(2) The price per hundredweight of skim milk in Class II shall be computed by (i) adding to 17 cents, 3 cents for each full one-half cent that the price of nonfat dry milk solids is above 7 cents per pound, (ii) dividing the resulting sum by 0.962, and (iii) adjusting to the nearest cent. The price per pound of non-fat dry milk solids to be used shall be the simple average of carlot prices for nonfat dry milk solids for human consumption both spray and roller process, delivered at Chicago as reported by the Department of Agriculture during the delivery period. In the event the Department does not publish carlot prices for nonfat dry milk solids for human consumption delivered at Chicago, there shall be used the weighted average of carlot prices per pound for non-fat dry milk solids, spray and roller process, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, and 3 cents shall be added for each full one-half cent that the latter price is above 6 cents per pound.

§ 935.52 *Emergency price provision.* Whenever the provisions of this subpart require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, and the specified price is not

reported or published the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

§ 935.53 *Location differential to handlers.* With respect to milk received from producers at an approved plant located outside the marketing area and which is transferred to an approved plant located within the marketing area in the form of milk, skim milk or cream, the Class prices computed pursuant to § 935.51 shall be reduced 5 cents per hundredweight with respect to milk received at a plant located in Waterloo precinct in Douglas County, Nebraska, and 10 cents per hundredweight with respect to milk received at any other plant located more than 45 miles from the marketing area.

APPLICATION OF PROVISIONS

§ 935.55 *Producer-handlers.* Sections 935.40 to 935.47, 935.50 to 935.53, 935.60 to 935.62, and 935.65 to 935.74 shall not apply to a producer-handler.

§ 935.56 *Handlers subject to other orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to his total receipts and utilization of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports in accordance with § 935.34.

(b) If the price which such handler is required to pay under the other order to which he is subject for skim milk and butterfat which are classified as Class I milk under this subpart, is less than the price provided by this subpart, such handler, on or before the 10th day after the end of the delivery period in which a bill is rendered, shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject.

§ 935.57 *Other source milk in Class I.* (a) In the case of approved plants which are permitted by the applicable health authorities to receive and process non-Grade A milk, non-Grade A skim milk and butterfat in other source milk shall be allocated to Class I up to the extent of the actual disposition of non-Grade A skim milk and butterfat as Class I milk outside the marketing area in localities where Grade A milk is not required for Class I use.

(b) During any delivery period prior to November 1, 1952, Grade A skim milk and butterfat in other source milk which is received in bulk at an approved plant from an unapproved plant which receives Grade A milk in packaged form for Class I use from the approved plant, shall be allocated to Class I in an amount not in excess of the amounts of skim milk and butterfat either (1) transferred from the unapproved to the approved plant as Grade A milk, or (2) transferred from the approved to the unapproved plant in packaged form, whichever is the lesser amount.

DETERMINATION OF UNIFORM PRICE

§ 935.60 *Computation of the value of milk received from producers.* The value of the milk received by each handler from producers during each delivery period shall be a sum of money computed by the market administrator by multiplying the hundredweight of skim milk and butterfat in each class computed pursuant to § 935.47 by the applicable class prices and adding together the resulting amounts and adding any amounts computed pursuant to paragraphs (a) and (b) of this section.

(a) If the handler had overage of either skim milk or butterfat there shall be added to the above value an amount computed by multiplying the pounds of overage by the applicable class prices;

(b) If any skim milk or butterfat in other source milk has been subtracted from Class I pursuant to § 935.47 (a) (3) in any delivery period, other than one in which any handler has received skim milk or butterfat which has been designated by the market administrator as emergency milk, the market administrator in computing the value of milk of such handler shall add an amount computed by multiplying the hundredweight of skim milk or butterfat so subtracted by the difference between the Class I and Class II prices.

§ 935.61 *Computation of uniform price.* For each delivery period the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 935.60 for all handlers who filed the reports prescribed by § 935.30 and who made the payments pursuant to §§ 935.65 and 935.69 for the preceding delivery period;

(b) Subtract during each of the delivery periods of April, May, and June, an amount equal to 8 percent of the resulting sum;

(c) Add during each of the delivery periods of September, October, and November one-third of the total amount subtracted pursuant to paragraph (b) of this section;

(d) Add an amount equal to the total value of the location differentials computed pursuant to § 935.67;

(e) Subtract if the average butterfat content of the milk included in these computations is more than 3.8 percent, or add, if such butterfat content is less than 3.8 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 935.66 and multiplying the result by the total hundredweight of producer milk included in these computations;

(f) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(g) Divide the resulting sum by the total hundredweight of milk included in these computations; and

(h) Subtract not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. The result shall be known as the "uniform price" for milk received from producers.

§ 935.62 *Notification of handlers.* On or before the 9th day of each delivery period the market administrator shall notify each handler of:

(a) The amount and value of his milk in each class computed pursuant to §§ 935.47 and 935.60;

(b) The uniform price computed pursuant to § 935.61;

(c) The amount, if any, due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund; and

(d) The total amounts to be paid by such handler pursuant to §§ 935.65 and 935.69.

PAYMENTS

§ 935.65 *Time and method of payment.* Each handler shall make payment for milk received during the delivery period as follows:

(a) *Final payment.* On or before the 12th day after the end of the delivery period:

(1) To each producer for milk which was not caused to be delivered by a cooperative association which is a handler at not less than the uniform price computed in accordance with § 935.61, subject to the butterfat and location differentials computed pursuant to §§ 935.66 and 935.67, and less the amount of the payment made to such producers pursuant to paragraph (b) (1) of this section.

(2) To a cooperative association which is a handler for milk which it caused to be delivered to such handler by such cooperative association at not less than the value of such milk at the applicable class prices, less the amount of the payment made pursuant to paragraph (b) (2) of this section.

(b) *Mid-delivery period payment.* On or before the 27th day of each delivery period:

(1) To each producer for milk which was not caused to be delivered by a cooperative association which is a handler an amount computed by multiplying the hundredweight of milk delivered during the first 15 days of the delivery period by the uniform price announced by the market administrator for the immediately preceding delivery period.

(2) To a cooperative association which is a handler for milk which was caused to be delivered to such handler by such cooperative association an amount computed by multiplying the hundredweight of milk caused to be so delivered during the first 15 days of the delivery period by the uniform price announced by the market administrator for the immediately preceding delivery period.

§ 935.66 *Butterfat differential to producers.* If any handler has received from any producer during the delivery period, milk having an average butterfat content other than 3.8 percent, such handler, in making the payment pursuant to § 935.65 (a) (1) shall add to the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.8 percent not less than, or shall subtract for each one-tenth of 1 percent that the average butterfat content of such milk is below 3.8 percent not more than an amount computed as follows: add 20 percent to the butter price, divide the resulting sum by 10, and adjust to the nearest cent.

§ 935.67 *Location differential to producers.* In making payments to producers pursuant to § 935.65 (a) (1) there shall be deducted with respect to milk received at an approved plant located in Waterloo precinct in Douglas County, Nebraska, 5 cents per hundredweight, and with respect to milk received at approved plants located more than 45 miles from the marketing area, 10 cents per hundredweight.

§ 935.68 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 935.56, 935.69 and 935.71 and out of which he shall make all payments to handlers pursuant to §§ 935.70 and 935.71.

§ 935.69 *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total value of the milk received by such handler from producers computed pursuant to § 935.60 is greater than the amount required to be paid producers by such handler pursuant to § 935.65 (a) (1).

§ 935.70 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each delivery period the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers computed pursuant to § 935.60 is less than the amount required to be paid producers by such handler pursuant to § 935.65 (a) (1): *Provided,* That the market administrator shall offset any payment due any handler against payments due from such handler.

§ 935.71 *Adjustment of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 935.69 and 935.70, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler.

§ 935.72 *Adjustment of errors in payments to producers.* Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payment of less than is required by § 935.65, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 935.73 *Expense of administration.* As his pro rata share of the expense of administration of this subpart each handler on or before the 12th day after the end of the delivery period shall pay to the market administrator, 2 cents per hundredweight or such lesser amount as the Secretary from time to time may prescribe with respect to all milk received from producers (including such handler's own production) and cooperative associations and with respect to emergency milk or other source milk which is classified as Class I. As its pro rata share of the expense of administration of this subpart, a cooperative association which is a handler, shall pay to the market administrator on or before the 12th day after the end of the delivery period, with respect to the milk of any producer which it causes to be delivered to an unapproved plant, an amount per hundredweight equivalent to that required to be paid by other handlers pursuant to this section.

§ 935.74 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses with respect to any obligation under this subpart, to make available to the market administrator or his representative all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 935.80 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 935.81.

§ 935.81 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 935.82 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations under this subpart the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 935.83 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating

agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 935.90 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 935.91 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Order Directing That Referendum Be Conducted Among Producers; Determination of Representative Period; and Designation of Agent To Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among producers (as defined in the proposed order amending the order, as amended, regulating the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area which is filed simultaneously herewith) who, during the month of May 1952 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

The month of May 1952 is hereby determined to be a representative period for the conduct of such referendum. Wayne McPherren is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177).

Done at Washington, D. C., this 25th day of July 1952.

[SEAL] K. T. HUTCHINSON,
Acting Secretary of Agriculture.

[F. R. Doc. 52-8338; Filed, July 29, 1952; 8:49 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[44 CFR Part 401]

DISPOSAL OF FOREIGN EXCESS PROPERTY

EXCESS PROPERTY FABRICATED FROM CRITICAL MATERIALS; NOTICE OF PROPOSED REVOCATION

Insofar as the Administrative Procedure Act may be applicable herein, notice is hereby given of the proposed revocation of the determination and other provisions of document issued January 9, 1951, and published in 16 F. R. 320. Interested persons may submit to the Foreign Excess Property Officer, Department of Commerce, Room 3-H-15, New General Accounting Office Building, Washington 25, D. C., written data, views or arguments relative to this proposed revocation. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the day of publication of this notice will be considered.

At the time of the determination referred to, practically all non-agricultural items of foreign excess property fabricated for defense use in whole or in part from critical materials were in short supply in this country. Under section 402 of the Federal Property and Administrative Services Act of 1949, foreign excess property could not be sold without a condition forbidding its importation into the United States unless the Secretary of Commerce (in the case of nonagricultural property) determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country.

Since the making of this determination the demand-supply situation for many materials and products has changed from one of scarcity to an adequate or an oversupply. Because of this change in the general supply situation affecting materials and products involved in foreign excess property, and to make the regulations under the Act consistent with the general purpose of the legislation, I deem it advisable to place the importation of foreign excess property on a more selective and individual basis. Accordingly, I propose to revoke my determination either in whole or in part. The effect of such revocation will be to require prospective importers to resort entirely to the procedure prescribed by Foreign Excess Property Order 1, as amended August 23, 1950 (15 F. R. 5847).

It is contemplated that the effective date of such revocation will be not less than thirty days from the time of its publication.

Pending the receipt of any views or suggestions with reference to the proposed revocation and any postponement of the effective date, prospective importers are advised to make application for authority to import in accordance with section 5 of said Foreign Excess Property Order 1.

(Sec. 402, 63 Stat. 393; 41 U. S. C. Sup. 272. Interprets or applies Reg. 8, Feb. 10, 1950, as amended, 15 F. R. 845, 5930)

Dated: July 24, 1952.

[SEAL] CHARLES SAWYER,
Secretary of Commerce.

[F. R. Doc. 52-8325; Filed, July 29, 1952; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 40, 61]

SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

NOTICE OF PROPOSED RULE MAKING

JULY 25, 1952.

Notice is hereby given that the Civil Aeronautics Board has under consideration adoption of the annexed revision of Part 40 of the Civil Air Regulations.

This is the third time which the basic principles embodied in the proposed revised draft of Part 40 have been circulated to the public, the first such occasion being on September 26, 1950 (15 F. R. 6700), and the second on September 1, 1951 (16 F. R. 8923). The revision circulated herewith incorporates changes made as a result of comment received on the earlier drafts, which has been considered at length by the Board and its staff. However, since it is deemed desirable to incorporate certain material on which earlier opportunity for public comment has not been afforded, the Board desires to recirculate the proposal again, so that specific written comment on the new items may be received. While the Board will not preclude comment on matters which were contained in the earlier drafts, particularly comment inspired by changes in fact occurring since the prior circulations, or matters formerly discussed but not contained in this or earlier drafts, it does not seek nor desire to receive written comment which are simply repetitious of matter already fully considered. Furthermore, with respect to the new matter herein contained, the Board is of the opinion that a 45-day period for return of comment will be fully adequate. Interested persons are advised that the Board does not intend to extend the deadline for comment and will not consider comment submitted after September 8, 1952. Comment should be explicit rather than general and include definitive proposals where changed wording or additional sections are involved. Comment should be submitted in writing and in duplicate addressed to the Civil Aeronautics Board attention Bureau of Safety Regulation, Washington 25, D. C. If any interested person desires to present oral argument to the Board on any point raised in its written comment, the comment should specify the particular point or points on which oral argument is desired. Copies of communications received in response to this Notice of Proposed Rule Making will be available after September 12, 1952, for examination by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington, D. C.

The following major points of difference from earlier drafts are items to which attention is particularly called:

1. Provision has been made whereby a carrier may operate over any route between the terminals which it is authorized to serve, if the operating facilities and procedures on such routes are substantially similar to those on which the issuance of the operating certificate was predicated. This will facilitate traffic flow in congested areas

with no decrease in safety. Accordingly, pilot route qualifications are based on flight between the terminals of a trip usually assigned to the pilot.

2. The requirement of written approval of the Administrator prior to the discontinuance or substantial modification of any facility upon which the original issuance of an air carrier operating certificate was based has been deleted. Instead, the Administrator has been given the authority to require a carrier to "show" the adequacy of any such facilities both before and after the issuance of an operating certificate.

3. The requirement that after December 31, 1953, all airplanes must comply with transport category requirements has been eliminated. The Bureau of Safety Regulation, in 16 F. R. 11787, has previously proposed such action on the basis that adequate performance limitations for nontransport category airplanes could be devised and that, prior to December 31, 1953, the Board could determine precisely what provisions of the transport category airworthiness requirements should be made applicable to nontransport category airplanes. Such performance limitations substantially as proposed in 17 F. R. 2896 have been included in the part, and certain equipment requirements of Part 4b have been incorporated to become effective December 31, 1953. Certain other such equipment proposals will be handled separately at an early date.

4. The requirements for emergency evacuation gear, emergency lighting requirements, and certain survival equipment requirements as well as the requirements for a formal briefing of passengers have been deleted from Part 40 because of the considerable controversy which they engendered. The Bureau of Safety Regulation will prepare a separate draft release covering this entire field and expects to present its proposals to the Board in the near future.

5. The radio requirements have been amended to permit night VFR operation by pilotage without the requirement for duplicate air-borne radio facilities. Also, special exception has been made for automatic direction finding equipment in order to avoid the necessity for duplicate facilities in operations in which the use of ADF has been authorized by the Administrator. These amendments are consistent with current Parts 40 and 61 with the exception that, in the case of operation by ADF, a requirement is introduced for an alternate routing to a suitable airport equipped with navigational systems the signals from which may be received by the remaining aircraft radio system. This latter restriction is currently imposed on air carriers by the Administrator in the operations specifications.

6. Provision has been made for flight engineer training as well as strengthened requirements for all crew training.

7. The previous proposal did not include minimum altitude requirements for air carrier aircraft, because it was contemplated that the entire subject would be treated in Part 60. However, since Part 60 has not been amended to date, the Board considers it advisable to continue the minimum altitude rules presently contained in Part 61.

The Board also will rescind present Part 61 at the time the revised Part 40 becomes effective. In addition Special Regulations 366, 368, and 382 and any extensions thereof will be rescinded insofar as they purport to affect operations covered by revised Part 40 on and after its effective date.

This proposal is made under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended, and may be changed in the light of comment received.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012, 62 Stat. 1216;49 U. S. C. 452, 551–560)

Dated: July 25, 1952, at Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] FRED A. TOOMBS,
Acting Secretary.

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

§ 40.0 *Applicability of this part.* The provisions of this part are applicable to air carriers holding certificates of public convenience and necessity issued in accordance with Title IV of the Civil Aeronautics Act of 1938, as amended, when they engage in scheduled interstate air transportation within the Continental limits of the United States: *Provided,* That the provisions of this part shall not apply to operations conducted pursuant to economic exemption authority issued by the Board for a period of 90 days or less: *And provided further,* That the Administrator may authorize any air carrier holding authority to engage in scheduled cargo operations pursuant to Title IV of the Civil Aeronautics Act of 1938, as amended, to conduct such operations in accordance with the air carrier certification and operations rules prescribed in Part 42 of this subchapter: *And provided further,* That in the case of routes extending beyond the Continental limits of the United States, the Administrator may authorize a specific air carrier to conduct operations over the whole or portions of such routes pursuant to provisions of Part 41 of this subchapter.

§ 40.1 *Applicability of Parts 43 and 60 of this subchapter.* The provisions of Parts 43 and 60 of the Civil Air Regulations shall be applicable to all air carrier operations conducted under the provisions of this part unless otherwise specified in this part.

§ 40.2 *Definitions.* (a) As used in this part terms shall be defined as follows:

(1) *Accelerate-stop distance.* Accelerate-stop distance is the distance required to accelerate the airplane to a specified speed and, assuming failure of the critical engine at the instant that speed is attained, to bring the airplane to a stop. (See the pertinent airworthiness requirements for the manner in which such distance is determined.)

(2) *Administrator.* The Administrator is the Administrator of Civil Aeronautics.

(3) *Air carrier.* Air carrier means any citizen of the United States who directly or indirectly, or by lease or by other arrangement, undertakes the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation, between any of the following places: A place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; places in the same State of the United States through the air space over any place outside thereof; places in the same Territory or possession of the United States, or the District of Columbia; a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; a place in a Territory or possession of the United States and a place in any other Territory or possession of the United States; a place in the United States and any place outside thereof.

(4) *Air traffic clearance.* An air traffic clearance is an authorization issued by air traffic control for an aircraft to proceed under specified conditions.

(5) *Air traffic control.* Air traffic control is a service provided for the purpose of:

(i) Preventing collisions between aircraft, and, on the airport ground maneuvering area, between aircraft and obstructions; and

(ii) Expediting and maintaining an orderly flow of air traffic.

(6) *Aircraft.* An aircraft shall mean any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(7) *Aircraft dispatcher.* An aircraft dispatcher is an individual holding a valid aircraft dispatcher certificate issued by the Administrator who exercises responsibility with the pilot in command in the operational control of each flight.

(8) *Airframe.* Airframe shall mean any and all kinds of fuselages, booms, nacelles, cowlings, fairings, empennages, airfoil surfaces, and landing gear, and all parts, accessories, or controls, of

whatever description, appertaining thereto, but not including powerplants and propellers.

(9) *Airport.* An airport is an area of land or water which is used, or intended for use, for the landing and take-off of aircraft.

(10) *Alternate airport.* An alternate airport is an airport listed in the dispatch release as an airport to which a flight may proceed if a landing at the airport to which the flight was initially dispatched becomes inadvisable.

(11) *Appliances.* Appliances shall mean instruments, equipment, apparatus, parts, appurtenances, or accessories of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including communication equipment, electronic devices, and any other mechanism or mechanisms installed in or attached to aircraft during flight, but excluding parachutes), and which are not a part or parts of airframes, powerplants, or propellers.

(12) *Approved.* Approved, when used alone or as modifying terms such as means, method, action, equipment, etc., shall mean approved by the Administrator.

(13) *Authorized representative of the Administrator.* An authorized representative of the Administrator shall mean any employee of the Civil Aeronautics Administration or any private person, authorized by the Administrator to perform particular duties of the Administrator under the provisions of this part.

(14) *Ceiling.* Ceiling is the distance from the surface of the ground or water to the lowest cloud layer or other obscuring media reported as "broken clouds," "overcast", or "obscuration", and not classified as "thin" or "partial."

(15) *Check airman.* A check airman is an airman designated by the air carrier and approved by the Administrator to examine other airmen to determine their proficiency with respect to procedures and technique and their competence to perform their respective airman duties.

(16) *Control area.* Control area is airspace having defined dimensions, designated by the Administrator, which extends upward from an altitude of 700 feet above the surface, within which air traffic control is exercised.

(17) *Control zone.* Control zone is airspace having defined dimensions, designated by the Administrator, which extends upward from the surface, which includes one or more airports, and within which rules additional to those governing control areas apply for the protection of air traffic.

(18) *Crew member.* A crew member is any individual assigned by an air carrier for the performance of duty on an aircraft in flight.

(19) *Critical engine.* The critical engine is that engine the failure of which gives the most adverse effect on the airplane flight characteristics relative to the case under consideration.

(20) *Critical-engine-failure speed, V_1 (transport category airplanes).* The critical-engine-failure speed is the airplane speed used in the determination of the take-off distance required at which the critical engine is assumed to fail. (See the pertinent airworthiness requirements for the manner in which such speed is determined.)

(21) *Dispatch release.* A dispatch release is an authorization issued by an air carrier specifying the conditions for the origination or continuance of a particular flight.

(22) *Duty aloft.* Duty aloft includes the entire period during which an individual is assigned as a member of an aircraft crew during flight time.

(23) *Effective length of runway*—(i) *Take-off.* The effective length of runway for take-offs as used in the take-off operating limitations for nontransport category airplanes is the distance from the end of the runway at which the take-off is started to the point at which the obstruction clearance plane associated with the other end of the runway intersects the center line of the runway.

(ii) *Landing.* The effective length of runway for landing as used in the landing operating limitations for both transport and nontransport category airplanes is the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the center line of the runway to the far end thereof.

(24) *En route.* En route shall mean the entire flight from the point of origination to the point of termination including intermediate stops.

(25) *Extended overwater operation.* An extended overwater operation shall be considered an operation over water conducted at a distance in excess of 50 miles from the nearest shore line.

(26) *Flight crew member.* A flight crew member is a crew member assigned to duty on an aircraft as a pilot or flight engineer.

(27) *Flight engineer.* A flight engineer is an individual holding a valid flight engineer certificate issued by the Administrator and whose primary assigned duty during flight is to assist the pilots in the mechanical operation of the aircraft.

(28) *Flight time.* Flight time is the time from the moment the aircraft first moves under its own power for the purpose of flight until it comes to rest at the next point of landing (block-to-block time).

(29) *High altitude operation.* High altitude operation is flight conducted at or above 12,500 feet above sea level east of longitude 100° W. and at or above 14,500 feet above sea level west of longitude 100° W.

(30) *IFR.* IFR is the symbol used to designate instrument flight rules.

(31) *Interstate air transportation.* Interstate air transportation means the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the air space over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia.

(32) *Maximum certificated take-off weight.* Maximum certificated take-off weight is the maximum take-off weight authorized by the terms of the aircraft airworthiness certificate.[1]

(33) *Minimum control speed.* The minimum control speed is the minimum speed at which the aircraft can be safely controlled in flight after an engine suddenly becomes inoperative. (See pertinent airworthiness requirements for the manner in which such speed is determined.)

(34) *Month.* Month shall mean that period of time extending from the first day of any month as delineated by the calendar through the last day thereof.

(35) *Night.* Night is the time between the ending of evening civil twilight and the beginning of morning civil twilight as published in the American Air Almanac converted to local time for the locality concerned.[2]

(36) *Obstruction clearance area*—(i) *Take-off.* A take-off obstruction clearance area as used in the take-off operating limitations for nontransport category airplanes is an area on the earth's surface defined as follows: The center line of the obstruction clearance area in plan view shall coincide with and prolong the center line of the runway, beginning at the point where the obstruction clearance plane intersects the center line of the runway and proceeding to a point not less than 1,500 feet from the beginning point. Thereafter the center line shall proceed in a path consistent with the take-off procedure for the runway or, where such a procedure has not been established, consistent with turns of at least 4,000-foot radius until a point is reached beyond which the obstruction clearance plane clears all obstructions. The obstruction clearance area shall extend laterally for a distance of 200 feet on each side of the center line at the point where the obstruction clearance plane intersects the runway and shall continue at this width until the end of the runway; thence it shall increase uniformly to 500 feet on each side of the center line at a point 1,500 feet from the intersection of the obstruction clearance plane with the runway; thereafter the obstruction clearance area shall extend laterally for a distance of 500 feet on each side of the center line.

(ii) *Landing.* A landing obstruction clearance area as used in the landing operating limitations for both transport and nontransport category airplanes is an area on the earth's surface defined as

[1] Note that the aircraft airworthiness certificate incorporates as a part thereof the aircraft operating record or that portion of an Airplane Flight Manual which contains the pertinent limitation.

[2] The American Air Almanac containing the ending of evening twilight and the beginning of morning twilight tables may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Information is also available concerning such tables in the offices of the Civil Aeronautics Administration or the United States Weather Bureau.

follows: The center line of the obstruction clearance area in plan view shall coincide with and prolong the center line of the runway, beginning at the point where the obstruction clearance plane interescts the center line of the runway and proceeding to a point not less than 1,500 feet from the beginning point. Thereafter the center line shall proceed in a path consistent with the instrument approach procedure for the runway or, where such a procedure has not been established, consistent with turns of at least 4,000-foot radius until a point is reached beyond which the obstruction clearance plane clears all obstructions. The obstruction clearance area shall extend laterally for a distance of 200 feet on each side of the center line at the point where the obstruction clearance plane intersects the runway and shall continue at this width until the end of the runway; thence it shall increase uniformly to 500 feet on each side of the center line at a point 1,500 feet from the intersection of the obstruction clearance plane with the runway; thereafter the obstruction clearance area shall extend laterally for a distance of 500 feet on each side of the center line.

(37) *Obstruction clearance plane.* An obstruction clearance plane is a plane which is tangent to or clears all obstructions within the obstruction clearance area and which slopes upward from the runway at a slope of 1:20 to the horizontal as shown in a profile view of the obstruction clearance area.

(38) *Operational control.* Operational control is the exercise of authority over initiation, continuation, diversion, or termination of a flight.

(39) *Person.* Person means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(40) *Pilot in command.* The pilot in command is the pilot designated by the air carrier as the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(41) *Pilotage.* Pilotage is navigation by means of visual reference to landmarks.

(42) *Propeller.* Propeller shall mean a device for propelling an aircraft through the air, having blades mounted on a power-driven shaft, which when rotated produces by its action on the air a thrust approximately parallel to the longitudinal axis of the aircraft.

(43) *Provisional airport.* A provisional airport is an airport approved for use by an air carrier for the purpose of providing service to a community when the regular airport serving that community is not available.

(44) *Rating.* Rating is an authorization issued with a certificate, and forming a part thereof, delineating special conditions, privileges, or limitations pertaining to such certificate.

(45) *Refueling airport.* A refueling airport is an airport approved as an airport to which flights may be dispatched only for refueling.

(46) *Regular airport.* A regular airport is an airport approved as a regular terminal or intermediate stop on an authorized route.

(47) *Route.* A route is airspace of a specified width which joins those points on the surface of the earth between which an air carrier provides air transportation in accordance with the terms of its certificate of public convenience and necessity issued by the Board.

(48) *Route segment.* A route segment is a portion of a route each terminus of which is identified by:

(i) A continental or insular geographic location, or

(ii) A point at which a definite radio fix can be established.

(49) *Runway.* A runway is a clearly defined area of an airport suitable for the safe landing or take-off of aircraft.

(50) *Scheduled for duty aloft.* Scheduled for duty aloft shall mean the assignment of a flight crew member on the basis of the flight time established in the operations schedules rather than the actual flight time.

(51) *Second in command.* Second in command is any pilot, other than the pilot in command, who is designated by the air carrier to act as second in command of an aircraft with a crew of three or more airmen.

(52) *Show.* Show shall mean to demonstrate or prove to the satisfaction of the Administrator prior to the issuance of the air carrier operating certificate and at any time thereafter required by the Administrator.

(53) *Synthetic trainer.* A synthetic trainer is a device the use of which is approved to simulate certain flight operating conditions.

(54) *Take-off safety speed, V_2.* The take-off safety speed is the airplane speed used in the determination of the take-off flight path at which the climb-out following take-off can be safely executed with one engine inoperative and with the aircraft in the take-off configuration. (See the pertinent airworthiness requirements for the manner in which such speed is determined.)

(55) *Time in service.* Time in service, as used in computing maintenance time records, is the time from the moment an aircraft leaves the ground until it touches the ground at the end of a flight.

(56) *Transport category aircraft.* Transport category aircraft are aircraft which have been type certificated in accordance with the requirements of Part 4b of this subchapter or the transport category requirements of Part 4a of this subchapter.

(57) *Type.* With regard to airman qualifications, type shall mean all aircraft of the same basic design, including all modifications thereto except those modifications which the Administrator has found result in a substantial change in handling or flight characteristics.

(58) *UHF.* UHF is the symbol used to designate ultrahigh frequency.

(59) *VFR.* VFR is the symbol used to designate visual flight rules.

(60) *VHF.* VHF is the symbol used to designate very high frequency.

(61) *V_{s_0}.* V_{s_0} denotes the true indicated stall speed or the minimum steady flight speed in the landing configuration.

(62) *Visibility.* Visibility is the greatest distance at which conspicuous objects can be seen and identified.

(i) *Flight visibility.* Flight visibility is the average range of visibility forward from the cockpit of an aircraft in flight, expressed in units of distance, to see and identify prominent unlighted objects by day and prominent lighted objects by night.

(ii) *Ground visibility.* Ground visibility is the visibility at the earth's surface as reported by the United States Weather Bureau or by a source approved by the Weather Bureau.

(63) *Year.* Year shall mean that period of time extending from the first day of any year as delineated by the calendar through the last day thereof.

CERTIFICATION RULES AND OPERATIONS SPECIFICATIONS REQUIREMENTS

§ 40.3 *Certificate required.* No person subject to the provisions of this part shall operate aircraft in scheduled interstate air transportation without, or in violation of the terms of, an air carrier operating certificate issued by the Administrator.

§ 40.4 *Contents of certificate.* An air carrier operating certificate shall specify the points to and from which, and the routes over which, an air carrier is authorized to operate.

§ 40.5 *Application for certificate.* An application for an air carrier operating certificate shall be made in the form and manner and contain information prescribed by the Administrator.

§ 40.6 *Issuance of certificate.* (a) An air carrier operating certificate shall be issued by the Administrator to an applicant having a certificate of public convenience and necessity issued by the Civil Aeronautics Board when the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this part and with the operations specifications authorized in this part.

(b) Whenever, upon investigation, the Administrator finds that the general standards of safety required for air carrier operations in aircraft of 12,500 pounds or less maximum certificated take-off weight, or for air carrier operations conducted pursuant to a temporary authorization issued under Title IV of the act, require or permit a deviation from any specific requirement for a particular operation or class of operations for which an application for an air carrier operating certificate has been made, he may issue operations specifications prescribing requirements which deviate from the requirements of this part. The Administrator shall promptly notify the Board of such deviations in the operations specifications and the reasons therefor.

§ 40.7 *Amendment of certificate.* (a) The Administrator shall, after notice and opportunity for hearing, amend an air carrier operating certificate when he finds that such amendment is reasonably required in the interest of safety.

(b) Upon application by an air carrier the Administrator shall amend an air carrier operating certificate when he finds that the general standards of safety permit such an amendment.

§ 40.8 *Display of certificate.* The air carrier operating certificate shall be available at the principal operations office of an air carrier for inspection by any authorized representative of the Board or the Administrator.

§ 40.9 *Duration of certificate.* (a) An air carrier operating certificate shall remain in effect until termination of the certificate of public convenience and necessity or other economic authorization issued by the Board held by the air carrier, or until surrendered, suspended, revoked, or otherwise terminated by order of the Board. After suspension or revocation it shall be returned to the Administrator.

(b) Nothing in this section shall be construed to deny or to defeat the jurisdiction of the Federal courts, the Administrator, or the Board to impose any authorized sanction, including revocation of the certificate, for a violation of the act, the Civil Air Regulations, or the air carrier operating certificate occurring during the effective period of such certificate.

§ 40.10 *Transferability of certificate.* An air carrier operating certificate is not transferable, except with the written consent of the Administrator.

§ 40.12 *Operations specifications required.* (a) On and after the effective date of this part all air carrier operations specifications currently in force relating to interstate air transportation shall cease to be a part of any air carrier operating certificate and shall be deemed to be operations specifications issued under this part. Thereafter new or amended specifications shall be issued by the Administrator for operations subject to this part in a form and manner prescribed by him and in accordance with the provisions of this part.

(b) No person subject to the provisions of this part shall operate aircraft in scheduled interstate transportation in violation of the operations specifications issued by the Administrator.

§ 40.13 *Contents of specifications.* The operations specifications shall contain the following:

(a) Types of operations authorized,

(b) Types of aircraft authorized for use,

(c) En route authorizations and limitations,

(d) Airport authorizations and limitations,

(e) Time limitation for aircraft overhaul, inspections, and checks, or standards by which such time limitations shall be determined,

(f) Procedures used to maintain control of weight and balance of aircraft,

(g) Interline equipment interchange requirements, if pertinent, and

(h) Such additional items as the Administrator determines, under the enabling provisions of this part, are necessary to cover a particular situation.

§ 40.14 *Utilization of operations specifications.* The air carrier shall keep its personnel informed with respect to the contents of the operations specifications and all amendments thereto applicable to the inividual's duties and responsibilities. A set of specifications shall be maintained by the air carrier as a seperate and complete document. Pertinent excerpts from the specifications or references thereto shall be inserted in the manual issued by the air carrier.

§ 40.15 *Amendment of operations specifications.* Any operations specification may be amended by the Administrator if he finds that safety in air transportation so requires or permits. Except in the case of an emergency requiring immediate action in respect to safety in air transportation or upon consent of the air carrier concerned, no amendment shall become effective prior to thirty days after the date the air carrier has been notified of such amendment. Within thirty days after either the receipt of such notice or the refusal of the Administrator to approve an air carrier's application for amendment, the air carrier may petition the Board to review the action of the Administrator. Except with regard to emergency amendments by the Administrator, the effectiveness of any amendment concerning which the carrier has petitioned for review shall be stayed pending the Board's decision.

§ 40.16 *Inspection.* An authorized representative of the Board or the Administrator shall be permitted at any time and place to make inspections or examinations to determine an air carrier's compliance with the requirements of the act, the Civil Air Regulations, the provisions of the air carrier's operating certificate, and the operations specifications.

§ 40.17 *Operations base and office.* Each scheduled air carrier shall give written notice to the Administrator of his principal business office, his principal operations base, and his principal maintenance base. Thereafter, prior to any change in any such office or base, he shall given written notice to the Administrator.

REQUIREMENTS FOR SERVICES AND FACILITIES

§ 40.20 *Route requirements; demonstration of competence.* Except as otherwise provided in this part, no air carrier shall conduct scheduled operations over any route or route segment until the air carrier has shown that it is competent to conduct such operations and that the facilities and services available are adequate for the type of operation proposed. The Administrator shall not require actual flight over a route or route segment, if the air carrier shows that such flight is not essential to safety. The air carrier may thereafter conduct operations between regular, provisional, or refueling airports on any approved route or routes on which the operational facilities and procedures are substantially similar: *Provided,* That high altitude operations may be conducted over any route.

§ 40.21 *Width of routes.* A route or route segment shall include the navigable airspace on each side of an approved track or tracks, and it shall have a width designated by the Administrator consistent with terrain, available navigational aids, traffic density, and air traffic control procedures.

§ 40.22 *IFR routes outside of control areas.* IFR routes outside of control areas shall be approved if the air carrier shows that the navigational and communications facilities are adequate for the operations proposed, unless the Administrator finds that because of traffic density an adequate level of safety cannot be assured in a particular area.

§ 40.23 *Airports.* The air carrier shall show that each route has sufficient airports found by the Administrator to be properly equipped and adequate for the type of operations to be conducted. Consideration shall be given to items such as size, surface, obstructions, facilities, public protection, lighting, navigation and communications aids, and traffic control.

§ 40.24 *Communications facilities.* The air carrier shall show that a two-way ground-to-aircraft radio communication system is available at such points as will insure reliable and rapid communications over the entire route, either direct or via approved point-to-point circuits for the following purposes:

(a) Communications between the aircraft and the appropriate dispatch office, in which case such system shall be independent of systems operated by the Federal Government, and

(b) Communications between the aircraft and the appropriate air traffic control unit, in which case the Administrator may permit the use of communications systems operated by the Federal Government.

§ 40.25 *Weather reporting facilities.* The air carrier shall show that sufficient weather reporting services are available at such points along the route as are necessary to insure such weather reports and forecasts as are necessary for the operation. Weather reports used to control flight movements shall be those prepared and released by the U. S. Weather Bureau, or by a source approved by the Weather Bureau. Forecasts used to control flight movements shall be prepared from such weather reports.

§ 40.26 *En route navigational facilities.* The air carrier shall show that nonvisual ground aids to air navigation are available along each route, that they are so located as to permit navigation to any regular, provisional, refueling, or alternate airport within the degree of accuracy necessary for the operation involved, and that they are available for the navigation of the aircraft within the degree of accuracy required to adhere to the flow of traffic established for air traffic control: *Provided,* That no nonvisual ground aids to navigation are required for day VFR operations where the characteristics of the terrain are such that navigation can be conducted by pilotage.

§ 40.27 *Servicing and maintenance facilities.* The air carrier shall show

that competent personnel and adequate facilities and equipment, including spare parts, supplies, and materials, are available at such points along the air carrier's routes as are necessary for the proper servicing, maintenance, repair, and inspection of aircraft and auxiliary equipment.

§ 40.28 *Location of dispatch centers.* The air carrier shall show that it has a sufficient number of dispatch centers adequate for the operations to be conducted and located at such points as are necessary to insure the proper operational control of each flight.

MANUAL REQUIREMENTS

§ 40.30 *Preparation of manual.* The air carrier shall prepare and keep current a manual for the use and guidance of flight and ground operations personnel in the conduct of its operations.

§ 40.31 *Contents of manual.* (a) The manual shall contain instructions, information, and data necessary for the personnel concerned to carry out their duties and responsibilities with a high degree of safety. It shall be in a form to facilitate easy revision, and each page shall bear the date of the last revision thereof. The contents of such manual shall not be contrary to the provisions of any Federal regulations, operations specifications, or the operating certificate. The manual may be in two or more separate parts (e. g., flight operations, ground operations, maintenance, communications, etc.) to facilitate use by the personnel concerned, but each part shall contain so much of the information listed below as is appropriate for each group of personnel:

(1) General policies,

(2) Duties and responsibilities of each flight crew and crew member and appropriate members of the ground organization,

(3) Reference to appropriate Civil Air Regulations and Civil Aeronautics Manuals,

(4) Flight dispatching and control,

(5) En route flight, navigation, and communication procedures, including procedures for the dispatch or continuance of flight, if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route,

(6) Appropriate information from the en route operations specifications, including for each approved route the type of aircraft authorized, its crew complement, the type of operation (i. e., VFR, IFR, day, night) and other pertinent information,

(7) Appropriate information from the airport operations specifications, including for each airport its location, its designation (i. e., regular, alternate, provisional, etc.), type of aircraft authorized, instrument approach procedures, landing and take-off minimums, and other pertinent information.

(8) Take-off, en route, and landing weight limitations,

(9) Procedures for briefing or familiarizing passengers, with the use of emergency equipment during flight,

(10) Emergency procedures and equipment,

(11) The method of designating succession of command of flight crew members,

(12) Procedures for determining the usability of all landing and take-off areas and for dissemination of pertinent information to operations personnel,

(13) Procedures for operation during periods of icing, hail, thunderstorms, turbulence, or any potentially hazardous meteorological conditions,

(14) Airman training programs, including appropriate ground, flight, and emergency phases,

(15) Instructions and procedures for maintenance, repair, overhaul, and servicing,

(16) Time limitations for overhaul, inspection, and checks, and standards governing revision of such time limitations,

(17) Procedures for refueling aircraft, elimination of fuel contamination, protection from fire including electrostatic protection, and the supervision and protection of passengers during refueling,

(18) Inspections for airworthiness, including instructions covering procedures, standards, responsibilities, and authority of the inspection personnel,

(19) Methods and procedures for maintaining the aircraft weight and center of gravity within approved limits,

(20) Pilot and dispatcher route and airport qualification procedures,

(21) Accident notification procedures, and

(22) Other data or instructions related to safety.

(b) At least one complete master copy of the manual containing all parts thereof shall be retained at the principal operations base of the air carrier.

§40.32 *Distribution of manual.* (a) Copies and revisions of the manual shall be furnished to the following:

(1) The Administrator,

(2) Authorized representatives of the Administrator assigned to the air carrier to act as aviation safety agents,

(3) Appropriate operations and maintenance personnel of the air carrier.

(b) All copies of the manual shall be kept up to date.

AIRCRAFT REQUIREMENTS

§ 40.50 *General.* Aircraft shall be identified, certificated, and equipped in accordance with the applicable airworthiness requirements of the Civil Air Regulations. No air carrier shall operate any aircraft in scheduled operation unless:

(a) The air carrier has complied with the appropriate requirements of § 40.66, and

(b) Such aircraft meets the requirements of this part.

§ 40.51 *Aircraft certification requirements*—(a) *Aircraft certificated on or before June 30, 1942.* Aircraft certificated as a basic type on or before June 30, 1942, shall either:

(1) Retain their present airworthiness certification status and meet the requirements of § 40.62, or

(2) Comply with either the performance requirements of §§ 4a.737–T through 4a.750–T of this subchapter or the performance requirements of Part 4b of this subchapter, and in addition shall meet the requirements of §§ 40.53 through 40.61: *Provided,* That should any type be so qualified, all aircraft of any one operator of the same or related types shall be similarly qualified and operated.

(b) *Aircraft certificated after June 30, 1942.* Aircraft certificated as a basic type after June 30, 1942, and used in passenger operation shall be certificated as transport category aircraft and shall meet the requirements of §§ 40.53 through 40.61 over each route to be flown.

§ 40.52 *Aircraft limitation for type of route.* All aircraft used in scheduled passenger air transportation shall be multiengine aircraft and shall comply with the following requirements:

(a) *Two- or three-engine aircraft.* Two- or three-engine aircraft shall not be used in passenger-carrying operations unless adequate airports are so located along the route that the aircraft will at no time be at a greater distance therefrom than one hour of flying time in still air at normal cruising speed with one engine inoperative: *Provided,* That the Administrator may specify distances between airports greater or less than those set forth in this paragraph when he determines that the character of the terrain, the type of operation, or the performance of the aircraft to be used so permit or require.

(b) *Land aircraft on overwater routes.* Land aircraft operated on flights involving extended overwater operations shall be certificated as adequate for ditching in accordance with the ditching provisions of Part 4b of this subchapter.

OPERATING LIMITATIONS

§ 40.53 *Operating limitations for transport category airplanes.* (a) In operating any passenger-carrying transport category airplane the provisions of §§ 40.54 through 40.61 shall be complied with, unless deviations therefrom are specifically authorized by the Administrator on the ground that the special circumstances of a particular case make a literal observance of the requirements unnecessary for safety.

(b) For transport category aircraft the performance data contained in the Airplane Flight Manual shall be applied in determining compliance with these provisions. Where conditions differ from those for which specific tests were made, compliance shall be determined by interpolation or by computation of the effects of changes in the specific variables where such interpolations or computations will give results substantially equaling in accuracy the results of a direct test.

(c) No airplane shall be taken off at a weight which exceeds the allowable weight for the runway being used as determined in accordance with the take-off runway limitations of the transport category operating rules, after taking into account the temperature operating correction factors required by §§ 4a.749a–T or 4b.117 of this subchap-

ter, and set forth in the Airplane Flight Manual for the airplane.

§ 40.54 *Weight limitations.* (a) No airplane shall be taken off from any airport located at an elevation outside of the altitude range for which maximum take-off weights have been determined, and no airplane shall depart for an airport of intended destination or have any airport specified as an alternate which is located at an elevation outside of the altitude range for which maximum landing weights have been determined.

(b) The weight of the airplane at take-off shall not exceed the authorized maximum take-off weight for the elevation of the airport from which the take-off is to be made.

(c) The weight at take-off shall be such that, allowing for normal consumption of fuel and oil in flight to the airport of intended destination, the weight on arrival will not exceed the authorized maximum landing weight for the elevation of such airport.

§ 40.55 *Take-off limitations to provide for engine failure.* No take-off shall be made except under conditions which will permit compliance with the following requirements.

(a) It shall be possible, from any point in the take-off up to the time of attaining the critical-engine-failure speed, to bring the airplane to a safe stop on the runway as shown by the accelerate-stop distance data.

(b) It shall be possible, if the critical engine should fail at any instant after the airplane attains the critical-engine-failure speed, to proceed with the take-off and attain a height of 50 feet, as indicated by the take-off path data, before passing over the end of the runway. Thereafter it shall be possible to clear all obstacles, either by at least 50 feet vertically, as shown by the take-off path data, or by at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing beyond such boundaries. In determining the allowable deviation of the flight path in order to avoid obstacles by at least the distances above set forth, it shall be assumed that the airplane is not banked before reaching a height of 50 feet, as shown by the take-off path data, and that a maximum bank thereafter does not exceed 15°.

(c) In applying the requirements of paragraphs (a) and (b) of this section, corrections shall be made for any gradient of the take-off surface. To allow for wind effect, take-off data based on still air may be corrected by not more than 50 percent of the reported wind component along the take-off path if opposite to the direction of take-off, and shall be corrected by not less than 150 percent of the reported wind component if in the direction of take-off.

§ 40.56 *En route limitations; all engines operating.* No airplane shall be taken off at a weight in excess of that which would permit a rate of climb (expressed in feet per minute), with all engines operating, of at least 6 V_{s_0} (when V_{s_0} is expressed in miles per hour) at an altitude of at least 1,000 feet above the elevation of the highest ground or obstruction within 10 miles on either side of the intended track. Transport category airplanes certificated under Part 4a of this subchapter are not required to comply with this section. For the purpose of this section it shall be assumed that the weight of the airplane as it proceeds along its intended track is progressively reduced by normal consumption of fuel and oil.

§ 40.57 *En route limitations; one engine inoperative.* No airplane shall be taken off at a weight in excess of that which would permit a rate of climb (expressed in feet per minute), with one engine inoperative, of at least $\left(0.06-\frac{0.08}{N}\right)V_{s_0}^2$ (when N is the number of engines installed and V_{s_0} is expressed in miles per hour) at an altitude of at least 1,000 feet above the elevation of the highest ground or obstruction within 10 miles on either side of the intended track: *Provided,* That for transport category airplanes certificated under Part 4a of this subchapter, the rate of climb shall be 0.02 $V_{s_0}^2$. For the purpose of this section it shall be assumed that the weight of the airplane as it proceeds along its intended track is progressively reduced by normal consumption of fuel and oil.

§ 40.58 *En route limitations; two engines inoperative.* No airplane having four or more engines shall be flown along an intended track except under the following conditions: *Provided,* That this section shall not apply to transport category airplanes certificated under Part 4a of this subchapter:

(a) No place along the intended track shall be more than 90 minutes away from an available landing area at which a landing may be made in accordance with the requirements of § 40.61, assuming all engines are operating at cruising power; or

(b) The take-off weight is such that the airplane with two engines inoperative shall have a rate of climb (expressed in feet per minute) of at least 0.01 $V_{s_0}^2$ (when V_{s_0} is expressed in miles per hour) either at an altitude of 1,000 feet above the elevation of the highest ground or obstruction within 10 miles on either side of the intended track or at an altitude of 5,000 feet, whichever is higher. The rate of climb referred to in this paragraph shall be determined by assuming the airplane's weight to be either that expected at the moment of failure of the second engine, assuming the failure to occur 90 minutes after departure, or that which may be attained by dropping fuel at the moment of failure of the second engine, assuming that sufficient fuel is retained to arrive at an altitude of at least 1,000 feet directly over the landing area.

§ 40.59 *Special en route limitations.* The 10-mile lateral distance specified in §§ 40.56 through 40.58 may, for a distance of no more than 20 miles, be reduced to 5 miles, if operating VFR, or if air navigational facilities are so located as to provide a reliable and accurate identification of any high ground or obstruction located outside of such 5-mile lateral distance but within the 10-mile distance.

§ 40.60 *Landing distance limitations; airport of destination.* No airplane shall be taken off at a weight in excess of that which, under the conditions stated hereinafter would permit the airplane to be brought to rest at the field of intended destination within 60 percent of the effective length of the runway from a point 50 feet directly above the intersection of the obstruction clearance plane and the runway. For the purpose of this section it shall be assumed that the take-off weight of the airplane is reduced by the weight of the fuel and oil expected to be consumed in flight to the field of intended destination.

(a) It shall be assumed that the aircraft is landed on the most favorable runway and direction in still air.

(b) It shall be assumed, considering the probable wind velocity and direction, that the airplane is landed on the most suitable runway, taking due account of the ground handling characteristics of the airplane type involved and other conditions (e. g., landing aids, terrain, etc.) and allowing for the effect on the landing path and roll of not more than 50 percent of the wind component along the landing path if opposite to the direction of landing, or not less than 150 percent of the wind component if in the direction of landing.

(c) If the airport of intended destination will not permit full compliance with paragraph (b) of this section, the aircraft may be taken off if an alternate airport is designated which permits compliance with § 40.61.

§ 40.61 *Landing distance limitations; alternate airports.* No airport shall be designated as an alternate airport in a dispatch release unless the aircraft at the weight anticipated at the time of arrival at such airport can comply with the requirements of § 40.60: *Provided,* That the aircraft can be brought to rest within 70 percent of the effective length of the runway.

§ 40.62 *Operating limitations for aircraft not certificated in the transport category.* In operating any large, nontransport category aircraft in passenger service after December 31, 1953, the provisions of §§ 40.63 through 40.65 shall be complied with, unless deviations therefrom are specifically authorized by the Administrator on the ground that the special circumstances of a particular case make a literal observance of the requirements unnecessary for safety. Prior to that date such aircraft shall be operated in accordance with such operating limitations as the Administrator determines will provide a safe relation between the performance of the aircraft and the airports to be used and the areas to be traversed. Performance data published or approved by the Administrator for each such nontransport category aircraft shall be used in determining compliance with these provisions.

§ 40.63 *Take-off limitations.* No take-off shall be made at a weight in excess of that which will permit the aircraft to be brought to a safe stop within the effective length of the runway from any

point during the take-off up to the time of attaining 105 percent V_{MO} or 115 percent V_{S_1}, whichever is the greater. In applying the requirements of this section:

(a) It may be assumed that take-off power is used on all engines during the acceleration;

(b) Account may be taken of not more than 50 percent of the reported wind component along the take-off path if opposite to the direction of take-off, and account shall be taken of not less than 150 percent of the reported wind component if in the direction of the take-off;

(c) Account shall be taken of the average runway gradient when the average gradient is greater than ½ percent. The average runway gradient is the difference between the elevations of the end points of the runway divided by the total length;

(d) It shall be assumed that the aircraft is operating in the standard atmosphere.

§ 40.64 *En route limitations; one engine inoperative.* (a) No take-off shall be made at a weight in excess of that which will permit the aircraft to climb at a rate of at least 50 feet per minute with the critical engine inoperative at an altitude of at least 1,000 feet above the elevation of the highest obstacle within 5 miles on either side of the intended track or at an altitude of 5,000 feet, whichever is the higher: *Provided,* That in the alternative an air carrier may utilize a procedure whereby the aircraft is operated at an altitude such that, in event of an engine failure, the aircraft can clear the obstacles within 5 miles on either side of the intended track by 1,000 feet, if the air carrier can demonstrate to the satisfaction of the Administrator that such a procedure can be used without impairing the safety of operation. If such a procedure is utilized, the rate of descent for the appropriate weight and altitude shall be assumed to be 50 feet per minute greater than indicated by the performance information published or approved by the Administrator. Before approving such a procedure, the Administrator shall take into account, for the particular route, route segment, or areas concerned, the reliability of wind and weather forecasting, the location and types of aids to navigation, the prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered, terrain features, air traffic control problems, and all other operational factors which affect the safety of an operation utilizing such a procedure.

(b) In applying the requirements of paragraph (a) of this section, it shall be assumed that:

(1) The critical engine is inoperative;

(2) The propeller of the inoperative engine is in the minimum drag position;

(3) The wing flaps and landing gear are in the most favorable positions;

(4) The operative engine or engines are operating at the maximum continuous power available;

(5) The aircraft is operating in the standard atmosphere;

(6) The weight of the aircraft is progressively reduced by the weight of the anticipated consumption of fuel and oil.

§ 40.65 *Landing distance limitations; airport of intended destination.* No take-off shall be made at a weight in excess of that which, allowing for the anticipated weight reduction due to consumption of fuel and oil, will permit the aircraft to be brought to a stop within 60 percent of the effective length of the most suitable runway at the airport of intended destination.

(a) This weight shall in no instance be greater than that permissible if the landing were to be made:

(1) On the runway with the greatest effective length in still air and,

(2) On the runway required by the condition of the probable wind, taking into account not more than 50 percent of the probable head-wind component and not less than 150 percent of the probable tail-wind component.

(b) In applying the requirements of this section it shall be assumed that:

(1) The aircraft passes directly over the intersection of the obstruction clearance plane and the runway at a height of 50 feet in a steady gliding approach at a true indicated air speed of at least $1.3\ V_{S_0}$;

(2) The landing is made in such a manner that it does not require any exceptional degree of skill on the part of the pilot.

(3) The aircraft is operating in the standard atmosphere.

§ 40.66 *Proving tests.* (a) A type of aircraft not previously approved for use in scheduled operation shall have at least 100 hours of proving tests, in addition to the aircraft certification tests, accomplished under the supervision of an authorized representative of the Administrator. As part of the 100-hour total at least 50 hours shall be flown over authorized routes and at least 10 hours shall be flown at night.

(b) A type of aircraft which has been previously proved shall be tested for at least 50 hours of which at least 25 hours shall be flown over authorized routes when the aircraft:

(1) Is materially altered in design, or

(2) Is to be used by an air carrier who has not previously proved such a type.

(c) During proving tests only those persons required to make the tests and those designated by the Board or the Administrator shall be carried. Mail, express, and other cargo may be carried when approved by the Administrator.

AIRCRAFT INSTRUMENTS AND EQUIPMENT

§ 40.70 *Aircraft instruments and equipment.* (a) Instruments and equipment shall be approved and shall be installed in accordance with the provisions of the airworthiness requirements applicable to the instruments or equipment concerned.

(b) The following instruments and equipment shall be in operable condition prior to take-off, except as provided in § 40.182 (b) for continuance of flight with equipment inoperative:

1) Instruments and equipment required to comply with airworthiness requirements under which the aircraft is type certificated and as required by the provisions of § 40.300,

(2) Instruments and equipment specified in §§ 40.71 through 40.78 for all operations, and the instruments and equipment specified in §§ 40.80 through 40.92 for the type of operation indicated, wherever these items are not already provided in accordance with subparagraph (1) of this paragraph.

INSTRUMENTS AND EQUIPMENT FOR ALL OPERATIONS

§ 40.71 *Flight and navigational equipment for all operations.* The following flight and navigational instruments and equipment are required for all operations:

(a) An air-speed indicating system with heated pitot tube or equivalent means for preventing malfunction due to icing,

(b) Sensitive altimeter,

(c) Clock (sweep-second),

(d) Free-air temperature indicator,

(e) Gyroscopic bank and pitch indicator,

(f) Gyroscopic rate-of-turn indicator combined with a slip-skid indicator,

(g) Gyroscopic direction indicator,

(h) Magnetic compass,

(i) Rate-of-climb indicator (vertical speed).

§ 40.72 *Powerplant instruments for all operations.* The following powerplant instruments are required for all operations:

(a) Carburetor air temperature indicator for each engine,

(b) Coolant temperature indicator for each liquid-cooled engine,

(c) Cylinder head temperature indicator for each air-cooled engine,

(d) Fuel pressure indicator for each pump-fed engine,

(e) Fuel flowmeter or fuel mixture indicator for each engine not equipped with an automatic altitude mixture control,

(f) Means for indicating fuel quantity in each fuel tank used,

(g) Manifold pressure indicator for each engine,

(h) Oil pressure indicator for each engine,

(i) Oil quantity indicator for each oil tank when a transfer or separate oil reserve supply is used,

(j) Oil temperature indicator for each engine,

(k) Tachometer for each engine,

(l) On and after December 31, 1953, an independent fuel pressure warning device for each engine or a master warning device for all engines with means for isolating the individual warning circuits from the master warning device.

§ 40.73 *Emergency equipment for all operations.* (a) The emergency equipment specified in paragraphs (b), (c), and (d) of this section is required for all operations. Such equipment shall be readily accessible to the crew, and the method of operation shall be plainly indicated. When such equipment is carried in compartments or containers, the compartments or containers shall be so marked as to be readily identifiable.

(b) Hand fire extinguishers for crew, passenger, and cargo compartments:

Hand fire extinguishers of an approved type shall be provided for use in crew, passenger, and cargo compartments in accordance with the following requirements:

(1) The type and quantity of extinguishing agent shall be suitable for the type of fires likely to occur in the compartment where the extinguisher is intended to be used.

(2) At least one hand fire extinguisher shall be provided and conveniently located on the flight deck for use by the flight crew.

(3) At least one hand fire extinguisher shall be conveniently located in the passenger compartment of aircraft accommodating more than six but less than 31 passengers. On aircraft accommodating more than 30 passengers, at least two fire extinguishers shall be provided. None need be provided in passenger compartments of aircraft accommodating six or less persons.

(c) First-aid equipment: First-aid equipment suitable for treatment of injuries likely to occur in flight or in minor accidents shall be provided in a quantity appropriate to the number of passengers and crew accommodated in the airplane.

(d) Crash ax: All aircraft shall be equipped with at least one crash ax, and if accommodations are provided for more than 30 persons including the crew aircraft shall be equipped with at least two crash axes. This equipment shall be stowed in readily accessible locations.

§ 40.74 *Seats and safety belts for all occupants.* A seat and an individual safety belt are required for each passenger and crew member, excluding infants, who are in other than a supine position during take-off and landing. One safety belt only is required in a berth for one or two persons in a supine position during take-off and landing. During flight between take-off and landing, one safety belt is sufficient for two persons occupying a multiple lounge or divan seat.

§ 40.75 *Miscellaneous equipment for all operations.* All aircraft shall have installed the following equipment:

(a) If protective fuses are used, spare fuses of a number approved for the particular aircraft and appropriately described in the air carrier manual,

(b) Windshield wiper or equivalent for each pilot,

(c) A power supply and distribution system capable of producing and distributing the load for all required instruments and equipment using an external power supply in the event of failure of any one power source or component of the power distribution system: *Provided,* That the Administrator may authorize the use of common elements in the power distribution system when he finds that such elements are so designed as to be reasonably protected against malfunction. Engine-driven sources of energy, when used, shall be on separate engines.

(d) Means for indicating the adequacy of the power being supplied to required flight instruments.

(e) Two independent static pressure systems, so vented to the outside atmosphere that they will be least affected by air flow variation, moisture, or other foreign matter, and so installed as to be airtight except for the vent into the atmosphere. When a means is provided for transferring an instrument from its primary operating system to an alternate system, such means shall include a positive positioning control and shall be marked to indicate clearly which system is being used.

(f) Means for locking all companionway doors which separate passenger compartments from crew compartments. Keys for all doors which separate passenger compartments from other compartments having emergency exit provisions shall be readily available to all crew members. All doors which lead to compartments normally accessible to passengers and which are capable of being locked by passengers shall be provided with means for unlocking by the crew in the event of an emergency.

(g) For seaplanes only, anchor light or lights, a warning bell for signalling when not under way during fog conditions, and an anchor adequate for the size of the seaplane.

§ 40.76 *Cockpit check procedure for all operations.* The air carrier shall provide for each type of aircraft a cockpit check procedure adapted to each operation in which the aircraft is to be utilized. This procedure shall include all items necessary for flight crew members to check for safety prior to starting engines, prior to taking off, prior to landing, and in powerplant emergencies. It shall be so designed as to obviate the necessity for a flight crew member to rely upon his memory for items to be checked and shall be readily usable in the cockpit of each aircraft.

§ 40.77 *Passenger information for all operations.* All aircraft shall be equipped with signs visible to passengers and cabin attendants to notify such persons when smoking is prohibited and when safety belts should be fastened. These signs shall be capable of on-off operation by the crew.

§ 40.78 *Exit and evacuation marking for all operations.* All aircraft shall comply with the provisions of this section.

(a) Emergency exits of aircraft carrying passengers shall be clearly marked as such in letters not less than three-fourths of an inch high with luminous paint, such markings to be located either on or immediately adjacent to the pertinent exit and readily visible to passengers. Location and method of operation of the handles shall be marked with luminous paint.

(b) The exterior areas of the fuselage of an aircraft shall be marked to indicate the location of mechanisms of access and those areas suitable for cutting to facilitate the escape and rescue of occupants in the event of an accident.

INSTRUMENTS AND EQUIPMENT FOR SPECIAL OPERATIONS

§ 40.80 *Instruments and equipment for operations at night.* Each aircraft operated at night shall be equipped with the following instruments and equipment in addition to those required for all operations:

(a) Flashing position lights,

(b) Two landing lights,

(c) Two class 1 or class 1A landing flares,

(d) Instrument lights providing sufficient illumination to make all instruments, switches, etc., easily readable, so installed that their direct rays are shielded from the pilots' eyes and that no objectionable reflections are visible to them. A means of controlling the intensity of illumination shall be provided unless it is shown that non-dimming instrument lights are satisfactory,

(e) At least one heavy-duty electric lantern conveniently located for use in passenger compartments. For aircraft carrying more than 30 passengers, at least two such lanterns shall be provided,

(f) An air-speed indicating system with heated pitot tube or equivalent means for preventing malfunctioning due to icing, and

(g) A sensitive altimeter.

§ 40.81 *Instruments and equipment for operations under IFR.* Each aircraft operated under IFR shall be equipped with the following instruments and equipment in addition to those required by §§ 40.71 through 40.78.

(a) An additional air-speed indicating system with heated pitot tube or equivalent means for preventing malfunctioning due to icing,

(b) An additional sensitive altimeter, and

(c) Instrument lights providing sufficient illumination to make all instruments, switches, etc., easily readable, so installed that their direct rays are shielded from the pilots' eyes and that no objectionable reflections are visible to them. A means of controlling the intensity of illumination shall be provided unless it is shown that non-dimming instrument lights are satisfactory.

§ 40.83 *Supplemental oxygen*—(a) *General.* Except where supplemental oxygen is provided in accordance with the requirements of § 40.84, supplemental oxygen shall be furnished and used as set forth in paragraphs (b) and (c) of this section. The amount of supplemental oxygen required for a particular operation to comply with the rules in this part shall be determined on the basis of flight altitudes and flight duration consistent with the operating procedures established for each such operation and route. As used in the oxygen requirements set forth in this section, "altitude" shall mean the pressure altitude corresponding with the pressure in the cabin of the airplane, and "flight altitude" shall mean the altitude above sea level at which the airplane is operated.

(b) *Crew members.* (1) At altitudes above 10,000 feet to and including 12,000 feet oxygen shall be provided for, and used by, each member of the flight crew on flight deck duty, and provided for all other crew members during the portion of the flight in excess of 30 minutes within this range of altitudes.

(2) At altitudes above 12,000 feet oxygen shall be provided for, and used by, each member of the flight crew on flight deck duty, and provided for all other crew members during the entire flight time at such altitudes.

(c) *Passengers.* Each air carrier shall provide a supply of oxygen for passenger safety as approved by the Administrator in accordance with the following standards:

(1) For flights of over 30-minute duration at altitudes above 8,000 feet to and including 14,000 feet a supply of oxygen sufficient to furnish oxygen for 30 minutes to 10 percent of the number of passengers carried shall be required.

(2) For flights at altitudes above 14,000 feet to and including 15,000 feet a supply of oxygen sufficient to provide oxygen for the duration of the flight at such altitudes for 30 percent of the number of passengers carried shall generally be considered adequate.

(3) For flights at altitudes above 15,000 feet a supply of oxygen sufficient to provide oxygen for each passenger carried during the entire flight at such altitudes shall be required.

§ 40.84 *Supplemental oxygen requirements for pressurized cabin airplanes.* When operating pressurized cabin airplanes, the air carrier shall so equip such airplanes as to permit compliance with the following requirements in the event of cabin pressurization failure.

(a) *For crew members.* When operating such airplanes at flight altitudes above 10,000 feet, the air carrier shall provide sufficient oxygen for all crew members for the duration of the flight at such altitudes: *Provided,* That not less than a 2-hour supply of oxygen shall be provided for the flight crew members on flight deck duty. The oxygen supply required by § 40.86 may be considered in determining the supplemental breathing supply required for flight crew members on flight deck duty in the event of cabin pressurization failure.

(b) *For passengers.* When operating such airplanes at flight altitudes above 8,000 feet, the air carrier shall provide the following amounts of oxygen:

(1) When an airplane is not flown at a flight altitude of over 25,000 feet, a supply of oxygen sufficient to furnish oxygen for 30 minutes to 10 percent of the number of passengers carried shall be considered adequate, if at any point along the route to be flown the airplane can safely descend to a flight altitude of 14,000 feet or less within 4 minutes.

(2) In the event that such airplane cannot descend to a flight altitude of 14,000 feet or less within 4 minutes, the following supply of oxygen shall be provided:

(i) For the duration of the flight in excess of 4 minutes at flight altitudes above 15,000 feet a supply sufficient to comply with § 40.83 (c) (3);

(ii) For the duration of the flight at flight altitudes above 14,000 feet to and including 15,000 feet, a supply sufficient to comply with § 40.83 (c) (2); and

(iii) For flight at flight altitudes above 8,000 feet to and including 14,000 feet, a supply sufficient to furnish oxygen for 30 minutes to 10 percent of the number of passengers carried.

(3) When an airplane is flown at a flight altitude above 25,000 feet, sufficient oxygen shall be furnished in accordance with the following requirements to permit the airplane to descend to an appropriate flight altitude at which the flight can be safely conducted. Sufficient oxygen shall be furnished to provide oxygen for 30 minutes to 10 percent of the number of passengers carried for the duration of the flight above 8,000 feet to and including 14,000 feet and to permit compliance with § 40.83 (c) (2) and (c) (3) for flight above 14,000 feet.

(c) For purposes of this section it shall be assumed that the cabin pressurization failure will occur at a time during flight which is critical from the standpoint of oxygen need and that after such failure the airplane will descend, without exceeding its normal operating limitations, to flight altitudes permitting safe flight with respect to terrain clearance.

§ 40.85 *Equipment standards.* The oxygen apparatus, the minimum rates of oxygen flow, and the supply of oxygen necessary to comply with the requirements of § 40.83 shall meet the standards established in § 4b.651 of this subchapter: *Provided,* That where full compliance with such standards is found by the Administrator to be impractical, he may authorize such changes in these standards as he finds will provide an equivalent level of safety.

§ 40.86 *Protective breathing equipment for the flight crew*—(a) *Pressurized cabin airplanes.* Each required flight crew member on flight deck duty shall have easily available at his station protective breathing equipment covering the eyes, nose, and mouth, or the nose and mouth where accessory equipment is provided to protect the eyes, to protect him from the effects of smoke, carbon dioxide, and other harmful gases. Not less than a 300-liter STPD supply of oxygen for each required flight crew member on flight deck duty shall be provided for this purpose.

(b) *Nonpressurized cabin airplanes.* The requirement stated in paragraph (a) of this section shall apply to nonpressurized cabin airplanes, if the Administrator finds that it is possible to obtain a dangerous concentration of smoke, carbon dioxide, or other harmful gases in the flight crew compartments in any attitude of flight which might occur when the aircraft is flown in accordance with either the normal or emergency procedures approved by the Administrator.

§ 40.87 *Equipment for overwater operations.* (a) The following equipment shall be required for all extended overwater operations.

(1) Life preserver or other adequate individual flotation device for each occupant of the aircraft,

(2) Lifesaving rafts sufficient in number to adequately carry all occupants of the aircraft,

(3) Suitable pyrotechnic signalling devices,

(4) One portable emergency radio signalling device, capable of transmission on the appropriate emergency frequency or frequencies, which is not dependent upon the aircraft power supply and which is self-buoyant and water-resistant, and

(b) Rafts and life preservers referred to in paragraph (a) (1) and (2) of this section shall be installed so as to be available to the crew and passengers.

§ 40.88 *Equipment for operations in icing conditions.* (a) For all operations in icing conditions each aircraft shall be equipped with means for the prevention or removal of ice on windshields, wings, empennage, propellers, and other parts of the aircraft where ice formation will adversely affect the safety of the aircraft.

(b) For operations in icing conditions at night means shall be provided for illuminating or otherwise determining the formation of ice on the portions of the wings which are critical from the standpoint of ice accumulation. When illuminating means are used, such means shall be of a type which will not cause glare or reflection which would handicap crew members in the performance of their normal functions.

RADIO EQUIPMENT

§ 40.90 *Radio equipment; general.* Each aircraft used in scheduled air transportation shall be equipped with the radio equipment specified for the type of operation in which it is engaged. Where two independent radio systems are required by §§ 40.91 and 40.92, each system shall have an independent antenna installation: *Provided,* That where rigidly supported nonwire antennas or other antenna installations of equivalent reliability are used, only one such antenna need be provided.

§ 40.91 *Radio equipment for operations under VFR over routes navigated by pilotage.* (a) For operations conducted under VFR over routes on which navigation can be accomplished by pilotage, each aircraft shall be equipped with such radio equipment as is necessary to:

(1) Permit communications, under normal operating conditions, with at least one appropriate ground station (as specified in § 40.24) from any point on the route and with other aircraft operated by the air carrier;

(2) Permit communications with airport traffic control towers from any point in the control zone within which flights are intended. The means employed for compliance with paragraph (a) of this section may be used for compliance with this subparagraph; and

(3) Receive meteorological information from any point en route by either of two independent systems. Either of the means required for compliance with subparagraphs (1) and (2) of this paragraph may be used to comply with one of the systems required by this paragraph.

(b) For all operations at night conducted under VFR over routes on which navigation can be accomplished by pilotage, each aircraft, in addition to the equipment specified in paragraph (a) of this section, shall be equipped with at least one receiving system capable of receiving route navigation signals applicable to the route to be flown, except that no marker beacon receiver or ILS receiver need be provided.

§ 40.92 *Radio equipment for operations under VFR over routes not navigated by pilotage or for operations under*

IFR. (a) For operations conducted under VFR over routes on which navigation cannot be accomplished by pilotage or for operations conducted under IFR, each aircraft, in addition to the equipment required by § 40.91, shall be equipped with such approved radio equipment as is necessary to receive satisfactorily, by either of two independent systems, radio navigational signals from all primary en route and approach navigational facilities intended to be used, except that only one marker beacon receiver which provides visual and aural signals or one ILS receiver need be provided. Equipment provided to receive signals en route may be used to receive signals on approach if it is capable of receiving both signals.

(b) In the case of operation on routes using procedures based on automatic direction finding, only one automatic direction finding system need be installed: *Provided,* That ground facilities are so located and the aircraft so fueled that, in case of failure of the automatic direction finding equipment, the flight may proceed safely to a suitable airport which has ground radio navigational facilities whose signals may be received by use of the remaining aircraft radio systems.

(c) During the period of transition from low frequency to very high frequency radio navigation systems one means of satisfactorily receiving signals over each of these systems shall be considered as complying with the requirement that two independent systems be provided to receive en route or approach navigation facility signals: *Provided,* That ground facilities are so located and the aircraft so fueled that in case of failure of either system the flight may proceed safely to a suitable airport which has ground radio navigational facilities whose signals may be received by use of the remaining aircraft radio system.

MAINTENANCE AND INSPECTION REQUIREMENTS

§ 40.100 *General.* Irrespective of whether the air carrier has made arrangements with any other person for the performance of maintenance and inspection functions, each air carrier shall have the primary responsibility for the airworthiness of its aircraft and required equipment.

§ 40.101 *Maintenance and inspection requirements.* (a) The inspection organization shall be responsible for determining that workmanship, methods employed, and material used are in conformity with the requirements of the Civil Air Regulations, with accepted standards and good practices, and that any airframe, powerplant, propeller, or appliance released for flight is airworthy.

(b) Any individual who is directly in charge of inspection, maintenance, overhaul, or repair of any airframe, powerplant, propeller, or appliance shall hold an appropriate license or airman certificate.

§ 40.102 *Maintenance and inspection training program.* The air carrier, or the person with whom arrangements have been made for the performance of maintenance and inspection functions, shall establish and maintain a training program to insure that all maintenance and inspection personnel charged with determining the adequacy of work performed are fully informed with respect to all procedures and techniques and with new equipment introduced into service, and are competent to perform their duties.

§ 40.103 *Maintenance and inspection personnel duty time limitations.* All mechanics shall be relieved of all duty for a period of at least 24 consecutive hours during any 7 consecutive days.

AIRMAN AND CREW MEMBER REQUIREMENTS

§ 40.110 *Utilization of airman; general.* No air carrier shall utilize an individual as an airman unless he holds a valid appropriate airman certificate issued by the Administrator and is otherwise qualified for the particular operation in which he is to be utilized.

§ 40.111 *Composition of flight crew.* (a) No air carrier shall operate an aircraft with less than the minimum flight crew specified in the airworthiness certificate for the type of aircraft and required in this part for the type of operation.

(b) Where the provisions of this part require the performance of two or more functions for which an airman certificate is necessary, such requirement shall not be satisfied by the performance of multiple functions at the same time by any airman.

(c) Where the air carrier is authorized to operate under instrument conditions or operates aircraft of 12,500 pounds or more maximum certificated weight, the minimum pilot crew shall be 2 pilots.

(d) On flights requiring a flight engineer, at least one other flight crew member shall be sufficiently qualified, so that in the event of illness or other incapacity, emergency coverage can be provided for that function for the safe completion of the flight. A pilot need not hold a flight engineer certificate to function in the capacity of a flight engineer for emergency conditions only.

§ 40.112 *Flight engineer.* An airman holding a valid flight engineer certificate shall be required on all aircraft certificated for more than 80,000 pounds maximum certificated take-off weight and on all four-engine aircraft certificated for more than 30,000 pounds maximum certificated take-off weight where the Administrator finds that the design of the aircraft used or the type of operation is such as to require engineer personnel for the safe operation of the aircraft.

§ 40.113 *Flight attendant.* At least one flight attendant shall be provided by the air carrier on all flights carrying passengers in aircraft of 10-passenger capacity or more.

§ 40.114 *Aircraft dispatcher.* Each air carrier shall provide an adequate number of qualified dispatchers at each dispatch center to insure the proper operational control of each flight.

TRAINING PROGRAM

§ 40.120 *Training program; general.* (a) Each air carrier shall establish a training program sufficient to insure that each crew member and dispatcher used by the air carrier is adequately trained to perform the duties to which he is to be assigned. The initial training phases will be satisfactorily completed prior to serving in scheduled operations.

(b) Each air carrier shall be responsible for providing adequate ground and flight training facilities and properly qualified instructors. A sufficient number of check airmen holding airman certificates and ratings appropriate to the type of check being conducted shall be provided for flight checking.

(c) The training program for each flight crew member shall consist of appropriate ground and flight training including proper crew coordination. Procedures for each flight crew function shall be standardized to the extent that each flight crew member will know the functions for which he is responsible and the relation of those functions to those of other flight crew members. The initial program shall include at least the appropriate requirements specified in §§ 40.121 through 40.124.

(d) The crew member emergency procedures training program shall include at least the requirements specified in § 40.124.

(e) The appropriate instructor, supervisor, or check airman shall certify to the proficiency of each crew member and dispatcher upon completion of his training, and such certification shall become a part of the individual's record.

§ 40.121 *Initial pilot ground training.* Ground training for all pilots shall include instruction in at least the following:

(a) The appropriate provisions of the air carrier operations specifications and appropriate provisions of the Civil Air Regulations with particular emphasis on the operation and dispatching rules and aircraft operating limitations;

(b) Dispatch procedures and appropriate contents of the manuals;

(c) The duties and responsibilities of crew members;

(d) The type of aircraft to be flown, including a study of the aircraft, engines, all major components and systems, performance limitations, standard and emergency operating procedures, and appropriate contents of the approved Airplane Flight Manual;

(e) The principles and methods of determining weight and balance limitations for take-off and landing;

(f) Navigation and use of appropriate aids to navigation, including the instrument approach facilities and procedures which the air carrier is authorized to use;

(g) Airport and airways traffic control systems and procedures, and ground control letdown procedures if pertinent to the operation. (To the extent practicable this should include visits to typical air traffic control units);

(h) Meteorology sufficient to insure a practical knowledge of the principles of icing, fog, thunderstorms, frontal systems, etc., and the recommended methods of operating under these various conditions;

(i) Procedures for operation in turbulent air and during periods of ice,

hail, thunderstorms, or potentially hazardous meteorological conditions.

§ 40.122 *Initial pilot flight training.* (a) Flight training for all pilots shall include at least take-offs, landings, and normal and emergency flight maneuvers in each type of aircraft to be flown by him in scheduled operations, and flight under simulated instrument flight conditions.

(b) Flight training for a pilot qualifying to serve as pilot in command shall include flight instruction and practice in at least the following maneuvers and procedures:

(1) In each type of aircraft to be flown by him in scheduled operations:

(i) At the authorized maximum take-off weight, take-off using maximum take-off power with simulated failure of the critical engine. For transport category aircraft the simulated engine failure shall be accomplished as closely as possible to the critical engine failure speed (V_1), and climb-out shall be accomplished at a speed as close as possible to the take-off safety speed (V_2). Each pilot shall determine the proper values for speeds V_1 and V_2:

(ii) At the authorized maximum landing weight, flight in four-engine aircraft, where appropriate, with the most critical combinations of two engines inoperative, or operating at zero thrust utilizing appropriate climb speeds as set forth in the Airplane Flight Manual;

(iii) At the authorized maximum landing weight, simulated pull-out from the landing and approach configurations accomplished at a safe altitude with the critical engine inoperative or operating at zero thrust: *Provided,* That suitable combinations of aircraft weight and power less than those specified in subdivisions (i), (ii), and (iii) of this subparagraph may be employed if the performance capabilities of the aircraft under the above conditions are simulated.

(2) Conduct of flight under simulated instrument conditions, utilizing all types of navigational facilities and the letdown procedures used in normal operations. If a particular type of facility is not available in the training area, such training may be accomplished in a synthetic trainer.

§ 40.123 *Initial flight engineer training.* (a) The training for flight engineers shall include at least paragraphs (a) through (e) of § 40.121.

(b) Flight engineers shall be given sufficient training in flight to become proficient in those duties assigned them by the air carrier. Except for emergency procedures, this training may be accomplished during scheduled flight under the supervision of a qualified flight engineer.

§ 40.124 *Initial crew member emergency training.* (a) The training in emergency procedures shall be designed to give each crew member appropriate individual instruction in all emergency procedures, including assignments in the event of an emergency, and proper coordination between crew members. At least the following subjects as appropriate to the individual crew member shall be taught: the procedures to be followed in the event of the failure of an engine, or engines, or other aircraft components or systems, emergency decompression, fire in the air or on the ground, ditching, evacuation, the location and operation of all emergency equipment, and power setting for maximum endurance and maximum range.

(b) Synthetic trainers may be used for training of crew members in emergency procedures where the trainers sufficiently simulate flight operating emergency conditions for the equipment to be used.

§ 40.125 *Initial aircraft dispatcher training.* (a) The training program for aircraft dispatchers shall provide for training in their duties and responsibilities and shall include a study of the flight operation procedures, air traffic control procedures, the performance of the aircraft used by the air carrier, navigational aids and facilities, and meteorology. Particular emphasis shall be placed upon the procedures to be followed in the event of emergencies, including the alerting of proper Governmental, company, and private agencies to render maximum assistance to the aircraft in distress.

(b) Each aircraft dispatcher shall, prior to initially performing the duty of an aircraft dispatcher, satisfactorily demonstrate to the ground instructor authorized to certify to his proficiency, his knowledge of the following subjects:

(1) Contents of the air carrier operating certificate and appropriate provisions of the air carrier operations specifications and manual and of the Civil Air Regulations,

(2) Characteristics of the aircraft operated by the air carrier,

(3) Cruise control data and cruising speeds for such aircraft,

(4) Maximum authorized loads for the aircraft for the routes and airports to be used,

(5) Air carrier radio facilities,

(6) Characteristics and limitations of each type of radio and navigational facility to be used,

(7) Effect of weather conditions on aircraft radio reception,

(8) Airports to be used and the general terrain over which the aircraft are to be flown,

(9) Prevailing weather phenomena,

(10) Sources of weather information available,

(11) Pertinent air traffic control procedures, and

(12) Emergency procedures.

§ 40.126 *Recurrent training.* (a) Each air carrier shall provide such training as is necessary to insure the continued competence of each crew member and dispatcher and to insure that each possesses adequate knowledge and familiarity with all new equipment and procedures to be used by him.

(b) Each air carrier shall, at intervals established as part of the training program, check the competence of each crew member and dispatcher with respect to procedures, techniques, and information essential to the satisfactory performance of his duties. Where the check of the pilot in command requires actual flight, such check shall be considered to have been met by the checks accomplished in accordance with § 40.132.

(c) The appropriate instructor, supervisor, or check airman shall certify as to the proficiency demonstrated, and such certification shall become a part of the individual's record. In the case of copilots, the pilot in command may make such certification.

FLIGHT CREWMAN AND DISPATCHER QUALIFICATIONS

§ 40.130 *Qualification; general.* (a) No air carrier shall utilize any flight crew member or dispatcher, nor shall any such airman perform the duties authorized by his airman certificate, unless he satisfactorily meets the appropriate requirements of § 40.120 or § 40.126, and §§ 40.131 through 40.139, and the recent experience requirements specified in the appropriate airman certification parts. All pilots serving as pilot in command shall hold appropriate airline transport pilot certificates and ratings. All other pilots shall hold at least commercial pilot certificates and instrument ratings.

(b) Check airmen shall certify as to the proficiency of the pilot in command being examined, as required by §§ 40.132 and 40.135, and such certification shall become a part of the airman's records.

§ 40.131 *Pilot recent experience; aircraft.* No air carrier shall schedule a pilot to serve as such in scheduled air transportation unless within the preceding 90 days he has made at least 3 take-offs and 3 landings in the aircraft of the particular type on which he is to serve.

§ 40.132 *Pilot checks*—(a) *Line check.* Prior to serving as pilot in command, and at least once each 12 months thereafter, a pilot shall satisfactorily accomplish a line check in one of the types of aircraft normally to be flown by him. This check shall be given by a check pilot who is qualified for the route. It shall consist of at least a flight between terminals over a route to which the pilot is normally assigned.

(b) *Proficiency check.* (1) An air carrier shall not utilize a pilot as pilot in command until he has satisfactorily demonstrated to a check pilot or a representative of the Administrator his ability to pilot and navigate aircraft to be flown by him. Thereafter, at least twice each 12 months at intervals of not less than 4 months or more than 8 months, a similar pilot proficiency check shall be given each such pilot. Where such pilots serve in more than one aircraft type, the pilot proficiency check shall be given in the larger and more complicated type of aircraft. In the event only the smaller type of aircraft in which he is qualified is available, he may take the proficiency check immediately due in that aircraft, but his next proficiency check shall be accomplished in the larger and more complicated type of aircraft.

(2) The pilot proficiency check shall include at least the following:

(i) The flight maneuvers specified in § 40.122 (b) (1), except that the simulated engine failure during take-off need not be accomplished at speed V_2,

(ii) Flight maneuvers approved by the Administrator accomplished under simulated instrument conditions utilizing the navigational facilities and letdown procedures normally used by the pilot: *Provided,* That maneuvers other than those associated with approach procedures for which the lowest minimums are approved may be given in a synthetic trainer which contains the radio equipment and instruments necessary to simulate other navigational and letdown procedures approved for use by the air carrier.

(c) Prior to serving as pilot in command in a particular type aircraft, a pilot shall have accomplished during the preceding 12 months either a proficiency check or a line check in that type aircraft.

§ 40.135 *Pilot route and airport qualification requirements.* (a) An air carrier shall not utilize a pilot as pilot in command until he has been qualified for the route on which he is to serve in accordance with paragraphs (b), (c), and (d) of this section and the appropriate instructor or check pilot has so certified.

(b) Each such pilot shall demonstrate adequate knowledge concerning the subjects listed below with respect to each route to be flown. Those portions of the examination pertaining to holding procedures and instrument approach procedures may be accomplished in a synthetic trainer which contains the radio equipment and instruments necessary to simulate the navigational and letdown procedures approved for use by the air carrier.

(1) Weather characteristics,
(2) Navigational facilities,
(3) Communication procedures,
(4) Type of en route terrain and obstructional hazards,
(5) Minimum safe flight levels,
(6) Position reporting points,
(7) Holding procedures,
(8) Pertinent traffic control procedures, and
(9) Congested areas, obstructions, physical layout, and all instrument approach procedures for each regular, provisional, and refueling airport approved for the route.

(c) Each such pilot shall fly through the approach procedure for which the lowest minimums are authorized for each regular, provisional, and refueling airport into which he is scheduled to fly: *Provided,* That the approaches to refueling airports may be accomplished in a synthetic trainer, unless the Administrator finds in particular cases that actual flight is necessary in the interest of safety. Unless impracticable, such flights shall be conducted under day VFR to permit the qualifying pilot to observe the airport and surrounding terrain, including any obstructions to landing and take-off. The qualifying pilot shall be accompanied by a pilot who is qualified over the route.

(d) Where an en route operation is to be conducted at or below the level of the adjacent terrain which is within a horizontal distance of 25 miles on either side of the center line of the route to be flown, the pilot shall be familiarized with such terrain by not less than one round trip as pilot or additional member of the flight crew over the route under day VFR conditions, and when night operation is authorized, one way of the round trip shall be made under night VFR conditions.

§ 40.136 *Maintenance of pilot route and airport qualifications for particular trips.* To maintain pilot route and airport qualifications, each pilot being utilized as pilot in command, within the preceding 12-month period, shall have made at least one trip as pilot or other member of the flight crew between terminals into which he is scheduled to fly and one actual or simulated entry into each regular, provisional, and refueling airport into which he is scheduled to fly, and shall have complied with the provisions of § 40.135 (d), if applicable. In order to reestablish pilot route and airport qualifications after absence from a route or any airport thereon for a period in excess of 12 months, a pilot shall comply with the appropriate provisions of § 40.135.

§ 40.137 *Competence check; other pilots.* Prior to serving as pilot, and at least twice each 12 months thereafter at intervals of not less than 4 months nor more than 8 months, each pilot not being utilized as pilot in command shall demonstrate that he is capable of flying by instruments. This demonstration may be made to a pilot serving as pilot in command or a check pilot of the air carrier.

§ 40.138 *Flight engineer; qualification for duty.* A flight engineer shall not be assigned to nor perform duties for which he is required to be certificated as a flight engineer unless, within the preceding 12-month period, he has had at least 50 hours of experience as a flight engineer on the type aircraft on which he is to serve, or until the air carrier or an authorized representative of the Administrator has checked such flight engineer and determined that he is familiar with all current information and operating procedures relating to the type aircraft to which he is to be assigned and is competent with respect to such aircraft.

§ 40.139 *Aircraft dispatcher; qualification for duty.* (a) Prior to dispatching aircraft over any route or route segment, an aircraft dispatcher shall be familiar, and the air carrier shall determine that he is familiar, with all pertinent operating procedures for the entire route and with the aircraft to be used: *Provided,* That where he is qualified only on a portion of such route, he may dispatch aircraft but only after coordinating with dispatchers who are qualified for the other portions of the route between the points to be served.

(b) An aircraft dispatcher shall not dispatch aircraft in the area over which he is authorized to exercise dispatch jurisdiction unless within the preceding 12 months he has made at least one round trip over the particular area on the flight deck of an aircraft. The trip selected for qualification purposes shall be one which includes entry into as many points as practicable, but it shall not be necessary for the aircraft dispatcher to make a flight over each route in the area.

FLIGHT TIME LIMITATIONS

§ 40.140 *Flight time limitations.* (a) An air carrier shall not schedule any flight crew member for duty aloft in scheduled air transportation or in other commercial flying if his total flight time in all commercial flying will exceed the following flight time limitations:

(1) 1,000 hours in any year.
(2) 100 hours in any month.

(b) An air carrier shall not schedule any flight crew member for duty aloft for more than 8 hours during any 24 consecutive hours unless he is given an intervening rest period at or before the termination of 8 scheduled hours of duty aloft. Such rest period shall equal twice the number of hours of duty aloft since the last preceding rest period, and in no case shall the rest period be less than 8 hours.

(c) When a flight crew member has been on duty aloft in excess of 8 hours in any 24 consecutive hours, he shall, upon completion of his assigned flight or series of flights, be given at least 16 hours for rest before being assigned any further duty with the air carrier.

(d) Time involved in transportation required of a flight crew member by an air carrier and provided by the air carrier for the purpose of transporting the flight crew member to an airport at which he is required to serve on a flight as a crew member, or from the airport at which he was relieved from duty as a crew member to return to his home station, shall not be considered as part of any required rest period.

(e) Each flight crew member engaged in scheduled air transportation shall be relieved from all duty with the air carrier for at least 24 consecutive hours during any seven consecutive days.

(f) No flight crew member shall be assigned any duty with an air carrier during any rest period prescribed by these regulations.

(g) A flight crew member shall not be considered to be scheduled for duty in excess of prescribed limitations, if the flights to which he is assigned are scheduled and normally terminate within such limitations, but due to exigencies beyond the air carrier's control, such as adverse weather conditions, are not at the time of departure expected to reach their destination within the scheduled time.

DUTY TIME LIMITATIONS; AIRCRAFT DISPATCHER

§ 40.144 *Aircraft dispatcher daily duty limitations.* (a) The daily duty period for aircraft dispatchers shall commence at such time as will permit him to become thoroughly familiar with existing and anticipated weather conditions along the route prior to the dispatch of any aircraft. He shall remain on duty until all aircraft dispatched by him have completed their flights, or have proceeded beyond his jurisdiction, or until he is relieved by another qualified aircraft dispatcher.

(b) The following rules will govern the hours of duty for aircraft dispatchers, except when circumstances or emergency

conditions beyond the control of the air carriers require otherwise:

(1) Maximum consecutive hours of duty. No dispatcher shall be scheduled for duty as such for a period of more than 10 consecutive hours.

(2) *Maximum scheduled hours of duty in 24 consecutive hours.* If a dispatcher is scheduled for duty as such for more than 10 hours in a period of 24 hours, he shall be given a rest period of not less than 8 hours, at or before the termination of 10 hours of dispatcher duty.

(3) *Dispatcher's time off.* Each aircraft dispatcher shall be relieved from all duty with the air carrier for a period of at least 24 consecutive hours during any 7 consecutive days.

FLIGHT OPERATIONS

§ 40.150. *General.* All scheduled flight operations shall be conducted in accordance with the requirements set forth in §§ 40.151 through 40.196.

§ 40.151 *Operational control.* The air carrier shall be responsible for operational control.

(a) *Joint responsibility of aircraft dispatcher and pilot in command.* The aircraft dispatcher and the pilot in command shall be jointly responsible for the preflight planning and dispatch release of the flight in compliance with the applicable Civil Air Regulations and operations specifications.

(b) *Responsibility of dispatcher.* The aircraft dispatcher shall be responsible:

(1) For monitoring the progress of each flight and the issuance of instructions and information necessary for the continued safety of the flight.

(2) For the cancellation, delay, or redispatch of a flight, if, in his opinion or in the opinion of the pilot in command, the flight cannot operate or continue to operate safely.

(c) *Responsibility of pilot in command.* The pilot in command shall during flight time be in command of the aircraft and crew and shall be responsible for the safety of the passengers, crew members, cargo, and aircraft.

§ 40.153 *Operations notices.* Each air carrier shall notify the appropriate operations personnel promptly of all changes in equipment and operating procedures, including known changes in the use of navigational aids, airports, air traffic control procedures and regulations, local airport traffic control rules, and of all known hazards to flight, including icing and other potentially hazardous meteorological conditions and irregularities of ground and navigational facilities.

§ 40.154 *Operations schedules.* In establishing flight operations schedules, each air carrier shall allow sufficient time for the proper servicing of aircraft with fuel and oil at intermediate stops, and it shall consider the prevailing winds along the particular route and the cruising speed of the type of aircraft to be flown which shall not exceed the specified cruising output of the aircraft engines.

§ 40.155 *Flight crew members at controls.* All required flight crew members shall remain at their respective stations when the aircraft is taking off or landing, and while en route except when the absence of one such flight crew member is necessary in connection with his regular duties. All flight crew members shall keep their seat belts fastened when at their respective stations.

§ 40.156 *Manipulation of controls.* No person other than a qualified pilot of the air carrier shall manipulate the flight controls during flight, excepting that any one of the following persons may, with the permission of the pilot in command, manipulate such controls:

(a) Authorized pilot safety representatives of the Administrator or the Board who are qualified on the aircraft and are engaged in checking flight operations, or

(b) Pilot personnel of another air carrier properly qualified on the aircraft and authorized by the operating carrier.

§ 40.157 *Admission to flight deck.* For purposes of this section the Administrator shall determine what constitutes the flight deck of an aircraft.

(a) In addition to the crew members assigned to a particular aircraft, CAA aviation safety agents and authorized representatives of the Board while in the performance of official duties shall be admitted to the flight deck of an aircraft.

NOTE: Nothing contained in this paragraph shall be construed as limiting the emergency authority of the pilot in command to exclude any person from the flight deck in the interest of safety.

(b) The persons listed below may, under the conditions specified, be admitted to the flight deck when authorized by the pilot in command.

(1) An employee of the Federal Government or of an air carrier or other aeronautical enterprise whose duties are such that his presence on the flight deck is necessary or advantageous to the conduct of safe air carrier operations,[3] or

(2) Any other person specifically authorized by the air carrier management and the Administrator.

(c) All persons admitted to the flight deck shall have seats available for their use in the passenger compartment except:

(1) CAA aviation safety agents or other authorized representatives of the Civil Aeronautics Administration or the Civil Aeronautics Board engaged in checking flight operations,

(2) Air traffic controllers who have been authorized by the Administrator to observe ATC procedures,

(3) Certificated airmen of the air carrier,

(4) Certificated airmen of another air carrier who have been authorized by the air carrier concerned to make specific trips over the route.

[3] Federal employees who deal responsibly with matters relating to air carrier safety and such air carrier employees as pilots, dispatchers, meteorologists, communication operators, and mechanics whose efficiency would be increased by familiarity with flight conditions may be considered eligible under this requirement. Employees of traffic, sales, and other air carrier departments not directly related to flight operations cannot be considered eligible unless authorized under subparagraph (2) of this paragraph.

§ 40.158 *Use of cockpit check procedure.* The cockpit check procedure shall be used by the flight crew for each procedure as set forth in § 40.76.

§ 40.159 *Flashlights.* The pilot in command shall assure that at least one flashlight for each crew member is aboard the aircraft.

§ 40.160 *Restriction or suspension of operation.* When conditions exist which constitute or might constitute a hazard to the conduct of safe air carrier operations, including airport and runway conditions, the air carrier shall restrict or suspend operations until such hazardous conditions are corrected.

§ 40.161 *Emergency decisions; pilot in command and aircraft dispatcher.* (a) In emergency situations which require immediate decision and action, the pilot in command may follow any course of action which he considers necessary under the circumstances. In such instances the pilot in command, to the extent required in the interest of safety, may deviate from prescribed operations procedures and methods, weather minimums, and Civil Air Regulations.

(b) If an emergency situation arises during the course of a flight which requires immediate decision and action on the part of the aircraft dispatcher, and which is known to him, he shall advise the pilot in command of such situation. The aircraft dispatcher shall ascertain the decision of the pilot in command and shall cause the same to be made a matter of record. If unable to communicate with the pilot, the dispatcher shall declare an emergency and follow any course of action which he considers necessary under the circumstances.

(c) When emergency authority is exercised by the pilot in command or by the dispatcher, the appropriate dispatch center shall be kept fully informed regarding the progress of the flight, and within 10 days after the completion of the particular flight a written report of any deviation shall be submitted by the individual declaring the emergency to the Administrator through the air carrier operations manager.

§ 40.162 *Reporting potentially hazardous meteorological conditions and irregularities of ground and navigational facilities.* When any meteorological condition or irregularity of ground or navigational facilities is encountered in flight the knowledge of which the pilot in command considers essential to the safety of other flights, he shall notify an appropriate ground radio station as soon as practicable. Such information shall thereupon be relayed by that station to the appropriate Governmental agency.

§ 40.163 *Reporting mechanical irregularities.* The pilot in command shall enter or cause to be entered in the maintenance log of the aircraft all mechanical irregularities encountered during flight. He shall, prior to each flight, inspect the log to ascertain the status of any irregularities entered in the log at the end of the last preceding flight.

§ 40.165 *Powerplant failure or precautionary stoppage.* (a) Except as provided in paragraph (b) of this section, when one engine of an aircraft fails or where the rotation of an engine of an aircraft is stopped in flight as a precautionary measure to prevent possible damage, a landing shall be made at the nearest suitable airport in point of time where a safe landing can be effected.

(b) The pilot in command of an aircraft having 4 or more engines may, if not more than one engine fails or the rotation thereof is stopped, proceed to an airport of his selection, if, upon consideration of the following factors, he determines such action to be as safe a course of action as landing at the nearest suitable airport:

(1) The nature of the malfunctioning and the possible mechanical difficulties which may be encountered if flight is continued,

(2) The availability of the feathered engine for use,

(3) The altitude, aircraft weight, and usable fuel at the time of engine stoppage,

(4) The weather conditions en route and at possible landing points,

(5) The air traffic congestion,

(6) The type of terrain, and

(7) The familiarity of the pilot with the airport to be used.

(c) When engine rotation is stopped in flight, the pilot in command shall immediately notify the proper ground station and shall keep such station fully informed regarding the progress of the flight.

(d) In cases where the pilot in command selects an airport other than the nearest suitable airport in point of time, he shall, upon completion of the trip, submit a written report, in duplicate, to his operations manager setting forth his reasons for determining that the selection of an airport other than the nearest was as safe a course of action as landing at the nearest suitable airport. The operations manager shall, within 7 days after completion of the trip, furnish a copy of this report with his own comments thereon to the Administrator.

§ 40.166 *Instrument approach procedures.* When an instrument approach is necessary, the instrument approach procedures and weather minimums specified by the Administrator shall be strictly adhered to.

§ 40.168 *Requirements for air carrier equipment interchange.* (a) Prior to conducting any operations pursuant to an interchange agreement authorized by the Civil Aeronautics Board, the air carrier shall show that:

(1) The procedures proposed for the conduct of such operations by the carriers involved conform with the provisions of the Civil Air Regulations and with safe operating practices;

(2) All operations personnel involved are familiar with the aircraft and equipment of the air carrier with whom interchange is to be effected, and with the communications and dispatching procedures to be used;

(3) All maintenance personnel involved are familiar with the aircraft and equipment, and the maintenance procedures of the air carrier with whom interchange is to be effected;

(4) The flight crew and the dispatchers involved meet the appropriate route and airport qualifications; and

(5) All aircraft operated are essentially similar to those aircraft of the carrier with whom interchange is to be effected with respect to flight instruments and their arrangement and with respect to the arrangement and motion of controls critical to safety, unless the Administrator determines that adequate training programs have been established to insure that any dissimilarities which might be a potential hazard will be safely overcome by flight crew familiarization.

(b) The pertinent provisions and procedures affecting the carriers involved shall be included in their manuals.

DISPATCHING RULES

§ 40.170 *General.* Aircraft operating in scheduled air transportation shall be dispatched only by qualified aircraft dispatchers in accordance with the provisions of this part.

§ 40.171 *Necessity for dispatching authority.* No flight shall be started without specific authority from an aircraft dispatcher, except when an aircraft has landed at an intermediate airport specified in the original dispatch release and has remained there for one hour or less.

§ 40.174 *Familiarity with weather conditions.* No aircraft dispatcher shall release a flight unless he is thoroughly familiar with existing and anticipated weather conditions along the route to be flown.

§ 40.175 *Facilities and services.* The dispatcher shall furnish to the pilot in command all available current reports or information pertaining to irregularities of navigational facilities and airport conditions which may affect the safety of the flight. He shall also furnish the pilot, during flight, any additional available information concerning irregularities which may affect the safety of the flight.

§ 40.176 *Aircraft equipment required for dispatch.* All aircraft dispatched shall be airworthy and shall be equipped in accordance with the provisions of § 40.70.

§ 40.177 *Communications and navigational facilities required for dispatch.* No aircraft shall be dispatched over any route or route segment unless the communications and navigational facilities required by §§ 40.24 and 40.26 are in satisfactory operating condition.

§ 40.178 *Dispatching under VFR.* Under VFR aircraft shall be dispatched only if appropriate weather reports, forecasts, or a combination thereof indicate that the ceilings and visibilities along the route to be flown are, and will remain, at or above the minimums required for flight under VFR until the flight arrives at the airport or airports of intended landing specified in the flight release.

§ 40.179 *Dispatching under IFR or over-the-top.* Under IFR or over-the-top, aircraft shall be dispatched only if the appropriate weather reports, forecasts, or a combination thereof pertaining to the airport or airports to which dispatched indicate that the ceilings and visibilities will be at or above the minimums approved by the Administrator at the estimated time of arrival thereat.

§ 40.180 *Alternate airport for departure; IFR.* (a) If the weather conditions at the airport of take-off are below the approved landing minimums for that airport, no aircraft shall be dispatched from that airport unless an alternate airport located with respect to the airport of take-off as follows is specified: *Provided,* That such alternate need not be selected if the ceiling at the take-off airport is at least 300 feet and the visibility at least one mile:

(1) *Aircraft having 2 or 3 engines.* Alternate airport located at a distance no greater than one hour of flying time in still air at normal cruising speed with one engine inoperative.

(2) *Aircraft having 4 or more engines.* Alternate airport located at a distance no greater than 2 hours of flying time in still air at normal cruising speed with one engine inoperative.

(b) The alternate airport weather requirements shall be those specified in § 40.194.

(c) All alternate airports shall be listed in the dispatch release.

§ 40.181 *Alternate airport for destination; IFR.* (a) For all IFR or over-the-top operations there shall be at least one alternate airport designated for each airport of destination and, when the weather conditions forecast for the destination and first alternate are marginal, at least one additional alternate airport: *Provided,* That no alternate need be designated when the ceiling at the airport to which the flight is dispatched is forecast to be at least 1,000 feet above the minimum initial approach altitude applicable to such airport and the visibility at such airport is forecast to be at least 3 miles for the period 2 hours before to 2 hours after the estimated time of arrival.

(b) All required alternate airports shall be listed in the dispatch release.

§ 40.182 *Continuance of flight; flight hazards.* (a) No aircraft shall be continued in flight toward any airport to which it has been dispatched when, in the opinion of the pilot-in-command or the aircraft dispatcher, the flight cannot be completed with safety, unless in the opinion of the pilot-in-command there is no safer procedure. In the latter event, continuation shall constitute an emergency situation.

(b) If any item of equipment required for the particular operation being conducted becomes unserviceable en route, the pilot-in-command shall comply with the procedures specified in the manual for such occurrence.

§ 40.183 *Operation in icing conditions.* (a) An aircraft shall not be dispatched, en route operations continued, or landing made when, in the opinion of the pilot in command or aircraft dispatcher, icing conditions are expected or

encountered which might adversely affect the safety of the flight.

(b) No aircraft shall take-off when frost, snow, or ice is adhering to the wings or control surfaces of the aircraft.

§ 40.184 *Redispatch and continuance of flight.* (a) Any regular, provisional, or refueling airport the use of which is authorized for the type of aircraft to be operated may be specified as a destination for the purpose of original dispatch.

(b) An airport specified as a destination for the purpose of original dispatch may be changed en route to another regular, provisional, or refueling airport, providing that the appropriate requirements of §§ 40.170 through 40.194 and § 40.60 or § 40.65 are met at the time of redispatch.

(c) No flight shall be continued to any airport to which it has been dispatched unless the weather conditions at an alternate airport specified in the flight release remain at or above the minimums specified for such airport when used as an alternate: *Provided,* That the flight release may be amended en route to include any approved alternate airport lying within the fuel range of the aircraft as specified in §§ 40.187 and 40.188.

(d) When the flight release is amended while the aircraft is en route, such amendments shall be made a matter of record.

§ 40.185 *Dispatch to and from provisional airport.* (a) No aircraft dispatcher shall dispatch an aircraft to a provisional airport unless such airport complies with all of the requirements of this part pertinent to regular airports.

(b) Dispatch from a provisional airport shall be accomplished in accordance with the same regulations governing dispatch from a regular airport.

§ 40.186 *Take-offs from alternate airports or from airports not listed in the operations specifications.* No aircraft shall take off from an alternate airport or from an airport which is not listed in the air carrier operating specifications unless:

(a) Such airport and related facilities are adequate for the operation of the aircraft,

(b) In taking off it is possible to comply with the applicable aircraft operating limitations,

(c) The weather conditions at that airport are equal to or better than those prescribed for such airport, and

(d) The aircraft is dispatched in accordance with all dispatching rules applicable to operation from an approved airport.

§ 40.187 *Fuel supply for all operations.* No aircraft shall be dispatched unless it carries sufficient fuel:

(a) To fly to the airport to which dispatched, and thereafter,

(b) To fly to and land at the most distant alternate for the airport to which dispatched where such alternate is required, and, thereafter,

(c) To fly for a period of at least 45 minutes at normal cruising consumption.

§ 40.188 *Factors involved in computing fuel required.* In computing the fuel required, consideration shall be given to the wind and other weather conditions forecast, traffic delays anticipated, and any other conditions which might delay the landing of the aircraft. In computing the required fuel, no account shall be taken of unusable fuel.

§ 40.191 *Take-off and landing weather minimums; VFR.* Irrespective of any clearance which may be obtained from air traffic control, no aircraft shall takeoff or land under VFR when either the ceiling or ground visibility as reported by the United States Weather Bureau or by a source approved by the Weather Bureau is less than specified below: *Provided,* That where a local surface restriction to visibility exists, such as smoke, dust, or blowing snow or sand, the visibility for both day and night operations may be reduced to one-half mile, if all turns after take-off and prior to landing and all flight beyond a mile from the airport boundary can be accomplished outside the area so restricted.

(a) For day operations: 1,000-foot ceiling and one mile visibility;

(b) For night operations: 1,000-foot ceiling and two miles visibility.

§ 40.192 *Take-off and landing weather minimums; IFR.* (a) No aircraft shall take off or land under IFR when either the ceiling or visibility is less than that approved by the Administrator for use as a regular airport.

(b) No instrument approach procedure shall be executed at any airport not served by ILS and GCA when the latest weather report furnished by a source authorized in accordance with the provisions of § 40.25 indicates the ceiling or visibility to be less than the approved minimums for landing at that airport.

(c) An instrument approach procedure may be executed when such weather report indicates that the ceiling or visibility are less than the approved minimums for landing at that airport only if both ILS and GCA are operative and are used by the pilot. A landing may be made in the event weather conditions equal to or better than the prescribed minimums for the airport are found to exist by the pilot in command of the flight upon reaching the approved minimum altitude.

§ 40.193 *Flight altitude rules.* Except during take-off and landing, the flight altitude rules prescribed in paragraphs (a) and (b) of this section, in addition to the applicable provisions of § 60.17, shall govern air carrier operations: *Provided,* That other altitudes may be established by the Administrator for any route or portion thereof where he finds, after considering the character of the terrain being traversed, the quality and quantity of meteorological service, the navigational facilities available, and other flight conditions, that the safe conduct of flight permits or requires such other altitudes: *And provided further,* That where the Administrator has established minimum over-the-top altitudes for any route or portion thereof lower than the minimum en route IFR altitudes, operations at such altitudes shall be conducted only by day, in accordance with such weather minimums as the Administrator may prescribe for over-the-top operations in the Flight Information Manual, and in accordance with IFR procedures appropriate to the route and the facilities for instrument approach intended to be used.

(a) *Day VFR passenger operations.* No aircraft engaged in passenger operations shall be flown at an altitude less than 1,000 feet above the surface or less than 1,000 feet from any mountain, hill, or other obstruction to flight.

(b) *Night VFR or IFR operations.* No aircraft shall be flown at an altitude less than 1,000 feet above the highest obstacle located within a horizontal distance of 5 miles from the center of the course intended to be flown or, in mountainous terrain designated by the Administrator, 2,000 feet above the highest obstacle located within a horizontal distance of 5 miles from the center of the course intended to be flown: *Provided,* That in VFR operations at night in such mountainous areas aircraft may be flown over a lighted civil airway at a minimum altitude of 1,000 feet above such obstacle: *And provided further,* That in the case of high altitude operations, the minimum altitude shall be not less than 2,000 feet above the elevation of the highest ground within 25 miles of the intended track.

§ 40.194 *Alternate airport weather minimums.* An airport shall not be selected as an alternate airport unless the weather conditions existing there at the time of dispatch are equal to or above the ceiling and visibility minimums approved for such airport when using it as an alternate, and the hourly weather reports and current forecasts indicate that the weather conditions will be at or above such minimums until the flight shall arrive thereat. The weather minimums at such alternate airport shall not be less than one of the following and in no event less than the corresponding minimums specified for the airport when used as a regular airport: *Provided,* That the Administrator may approve higher or lower minimums at particular airports where the safe conduct of the flight requires or permits, considering the character of the terrain being traversed, the meteorological service and navigational facilities available, and other conditions affecting flight.

(a) An airport served by an approved radio navigational facility and either an instrument landing system or a ground control approach system which the carrier has been authorized to use: ceiling 800 feet and visibility one mile; or ceiling 700 feet and visibility of 1½ miles; or ceiling 600 feet and visibility of two miles;

(b) An airport served by an approved radio navigational facility: ceiling 1,000 feet and visibility of one mile; or ceiling 900 feet and visibility of 1½ miles; or ceiling 800 feet and visibility of two miles;

(c) An airport not served by an approved radio navigational facility: If overcast, not less than 1,000 feet above the minimum en route instrument altitude applicable to the route to such alternate airport and visibility of two miles; if broken clouds, not less than

1,000 feet above the elevation of the airport and visibility of two miles.

§ 40.195 *Preparation of dispatch release.* A dispatch release shall be prepared for each flight between specified points from information furnished by the authorized aircraft dispatcher. This release shall be signed by the pilot in command and by the authorized aircraft dispatcher only when both believe the flight can be made with safety. The aircraft dispatcher may delegate authority to sign such release for a particular flight, but he shall not delegate the authority to dispatch.

§ 40.196 *Preparation of load manifest form.* The air carrier shall be responsible for the preparation and accuracy of a load manifest form prior to each takeoff. This form shall be prepared by personnel of the air carrier charged with the duty of supervising the loading of the aircraft and the preparation of load manifest forms or by other qualified persons authorized by the air carrier.

REQUIRED RECORDS AND REPORTS

§ 40.200 *Records; general.* Each scheduled air carrier shall maintain records and submit reports in accordance with the requirements of §§ 40.201 through 40.212. All records shall be retained for the period specified in Part 249 of the Economic Regulations of the Board, unless otherwise specified herein.

§ 40.201 *Crew member and dispatcher records.* Each air carrier shall maintain current records of every crew member and aircraft dispatcher. These records shall contain such information concerning the qualifications of each such crew member and dispatcher as is necessary to show compliance with the appropriate requirements of the Civil Air Regulations, e. g., proficiency and route checks, aircraft qualifications, training, physical examinations, and flight time records. The disposition of any flight crew member or aircraft dispatcher released from the employ of the air carrier, or who becomes physically or professionally disqualified, shall be indicated in these records which shall be retained by the air carrier for at least three months.

§ 40.202 *List of aircraft.* Each air carrier shall maintain a current list of all aircraft being operated by it in scheduled air transportation: *Provided,* That aircraft of another air carrier being operated in accordance with an interchange agreement may be incorporated by reference.

§ 40.203 *Dispatch release form.* (a) The dispatch release may be in any form but shall contain at least the following information with respect to each flight:

(1) Identification number of the aircraft to be used, and the trip number,

(2) Airport of departure, intermediate stops, destination, and alternates therefor,

(3) Fuel supply,

(4) Type of operation, e. g., IFR, VFR.

(b) The dispatch release shall contain, or have attached thereto, weather reports, available weather forecasts, or a combination thereof, for the destination, intermediate stops, and alternates specified therein which shall be the latest available at the time the dispatch release is signed by the pilot in command and dispatcher. It shall include such additional weather reports and forecasts, as available, considered necessary or desirable by the pilot in command and aircraft dispatcher.

§ 40.204 *Load manifest.* (a) The load manifest shall contain at least the following information with respect to the loading of an aircraft at the time of take-off:

(1) The weight of:

(i) Aircraft,

(ii) Fuel and oil,

(iii) Cargo, including mail and baggage, and

(iv) Passengers;

(2) The maximum allowable weight applicable for the particular flight;

(3) The total weight computed in accordance with approved procedures;

(4) Evidence that the airplane is loaded in accordance with an approved schedule which insures that the center of gravity is within approved limits.

(b) The load manifest shall be prepared and signed for each flight by qualified personnel of the air carrier charged with the duty of supervising the loading of the aircraft and the preparation of load manifest forms, or by other qualified personnel authorized by the air carrier.

§ 40.205 *Disposition of load manifest, dispatch release form, and flight plans.* Copies of the completed load manifest, or information therefrom except with respect to cargo and passenger distribution, the dispatch release form, and the flight plan shall be in the possession of the pilot in command and shall be carried in the aircraft to its destination. Copies also shall be kept in the station files for at least 60 days.

§ 40.206 *Maintenance records.* (a) Each air carrier shall keep at its principle maintenance base current records of the total time in service, the time since last overhaul, and the time since last inspection of all major components of the airframe, engines, propellers, and, where practicable, appliances.

(b) Records of total time in service may be discontinued when it has been shown that the service life of component parts is safely controlled by other means, such as inspection, overhaul, or parts retirement procedures. The Administrator may require the keeping of total time records for specific parts when it is found that other procedures will not safely limit the service life of such parts.

(c) An aircraft component, engine, propeller, or appliance for which complete records are not available may be placed in service; *Provided,* That:

(1) It is of a type for which total time in service records are not required under the provisions of paragraph (b) of this section.

(2) Parts which are limited by the Administrator or manufacturer to a specific service time are retired and replaced by new parts, and

(3) It has been properly overhauled or rebuilt, and a record of such overhaul or rebuilding is included in the maintenance records.

§ 40.207 *Maintenance log.* A legible record shall be made in the aircraft's maintenance log of the action taken in each case of reported or observed failures or malfunctions of airframes, powerplants, propellers, and appliances critical to the safety of the flight. The air carrier shall establish an approved procedure for retaining an adequate number of copies of such records in the aircraft in a place readily accessible to the flight crew and shall incorporate such procedure in the air carrier manual.

§ 40.208 *Daily mechanical reports.* (a) Whenever a failure, malfunctioning, or other defect is detected in flight or on the ground in an aircraft or aircraft component which may reasonably be expected by the air carrier to cause a serious hazard in the operation of any aircraft, a report shall be made of such failure, malfunctioning, or other defect to the Administrator. This report shall cover a 24-hour period beginning and ending at midnight, shall be submitted by 12 o'clock midnight of the following working day, or sooner if the seriousness of the malfunction or difficulty so warrants, and shall include as much of the following information as is available on the first daily report following such incidents.

(1) Type and CAA identification number of the aircraft, name of air carrier, and date;

(2) Emergency procedure effected: unscheduled landing, dumping fuel, etc.;

(3) Nature of condition: Fire, structural failure, etc.;

(4) Identification of part and system involved, including the type designation of the major component;

(5) Apparent cause of trouble: Wear, cracks, design deficiency, personnel error, etc.;

(6) Disposition: Repaired, replaced, aircraft grounded, etc.;

(7) Brief narrative summary to supply any other pertinent data required for more complete identification, determination of seriousness, corrective action, etc.

(b) These reports shall not be withheld pending accumulation of all of the information specified in paragraph (a) (1) through (7) of this section. When additional information is obtained relative to the incident, it shall be expeditiously submitted as a supplement to the original report, reference being made to the date and place of submission of the first report.

§ 40.209 *Mechanical interruption summary report.* Each air carrier shall submit regularly and promptly to the Administrator a summary report containing information on the following occurrences:

(a) All interruptions to a scheduled flight, unscheduled changes of aircraft en route, and unscheduled stops and diversions from route which result from known or suspected mechanical difficulties or malfunctions.

(b) The number of engines removed prematurely because of mechanical trouble, listed by make and model of

engine and the aircraft type in which the engine was installed.

(c) The number of propeller featherings in flight, listed by type of propeller and type of engine and the aircraft on which the propeller is installed.

§ 40.211 *Alteration and repair reports.* Reports of major alterations or repairs of airframes, powerplants, propellers, and appliances shall be made available to the Administrator promptly upon completion of such alterations or repairs.

§ 40.212 *Maintenance release.* When an airplane is released by the maintenance organization to flight operations, a maintenance release or appropriate entry into the maintenance log certifying that the aircraft is in an airworthy condition shall be prepared and signed by a maintenance inspector or a person authorized by the inspection organization prior to release of such aircraft. If a maintenance release form is prepared, a copy shall be given to the pilot in command. An appropriate record shall be kept in the station file for at least 60 days.

SPECIAL AIRWORTHINESS REQUIREMENTS

§ 40.300 *Fire prevention.* Irrespective of the basis for certification, all aircraft used in passenger service powered by engines rated at more than 600 horsepower each for maximum continuous operation shall comply with the requirements contained in §§ 40.301 through 40.333.: *Provided,* That if the Administrator finds that in particular models of existing aircraft literal compliance with specific items of these requirements might be extremely difficult of accomplishment and that such compliance would not contribute materially to the objective sought, he may accept such measures of compliance as he finds will effectively accomplish the basic objectives of these regulations.[4]

§ 40.301 *Susceptibility of materials to fire.* Where necessary for the purpose of determining compliance with any of the following definitions, the Administrator shall prescribe the heat conditions and testing procedures which any specific material or individual part must meet.

(a) *Fireproof.* "Fireproof" material means a material which will withstand heat equally well or better than steel in dimensions appropriate for the purpose for which it is to be used. When applied to material and parts used to confine fires in designated fire zones "fireproof" means that the material or part will perform this function under the most severe conditions of fire and duration likely to occur in such zones.

(b) *Fire-resistant.* When applied to sheet or structural members, "fire-resistant" material shall mean a material which will withstand heat equally well or better than aluminum alloy in dimensions appropriate for the purpose for which it is to be used. When applied to fluid-carrying lines, this term refers to a line and fitting assembly which will perform its intended protective functions under the heat and other conditions likely to occur at the particular location.

(c) *Flame-resistant.* "Flame-resistant" material means a material which will not support combustion to the point of propagating, beyond safe limits, a flame after removal of the ignition source.

(d) *Flash-resistant.* "Flash-resistant" material means material which will not burn violently when ignited.

(e) *Flammable.* "Flammable" fluids or gases mean those which will ignite readily or explode.

§ 40.302 *Cabin interiors.* All compartments occupied or used by the crew or passengers shall comply with the following provisions:

(a) Materials shall in no case be less than flash-resistant.

(b) The wall and ceiling linings, the covering of all upholstering, floors, and furnishings shall be flame-resistant.

(c) Compartments where smoking is to be permitted shall be equipped with ash trays of the self-contained type which are completely removable. All other compartments shall be placarded against smoking.

(d) All receptacles for used towels, papers, and wastes shall be of fire-resistant material, and shall incorporate covers or other provisions for containing possible fires started in the receptacles.

§ 40.303 *Internal doors.* Where internal doors are equipped with louvres or other ventilating means, provision convenient to the crew shall be made for closing the flow of air through the door when such action is found necessary.

§ 40.304 *Ventilation.* All passenger and crew compartments shall be suitably ventilated. Carbon monoxide concentration shall not exceed one part in 20,000 parts of air, and fuel fumes shall not be present. Where partitions between compartments are equipped with louvres or other means allowing air to flow between such compartments, provision convenient to the crew shall be made for closing the flow of air through the louvres or other means when such action is found necessary.

§ 40.305 *Fire precautions.* Each compartment shall be designed so that, when used for the purpose of storing cargo or baggage, it shall comply with all the requirements prescribed for cargo or baggage compartments. It shall include no controls, wiring, lines, equipment, or accessories, the damage or failure of which would affect the safe operation of the airplane, unless such item is adequately shielded, isolated, or otherwise protected so that it cannot be damaged by movement of cargo in the compartment, and so that any breakage or failure of such item would not create a fire hazard in the compartment. Provisions shall be made to prevent cargo or baggage from interfering with the functioning of the fire-protective features of the compartment. All materials used in the construction of cargo or baggage compartments, including tie-down equipment, shall be flame-resistant or better. In addition, all cargo and baggage compartments shall include provisions for safeguarding against fires according to the following classifications:

(a) Cargo and baggage compartments shall be classified in the "A" category, if presence of a possible fire therein can be readily discernible to a member of the crew while at his station, and if all parts of the compartment are easily accessible in flight. A hand fire extinguisher shall be available for such compartment.

(b) Cargo and baggage compartments shall be classified in the "B" category, if sufficient access is provided while in flight to enable a member of the crew to move by hand all contents and to reach effectively all parts of the compartment with a hand fire extinguisher. Furthermore, the design of the compartment shall be such that, when the access provisions are being used, no hazardous quantity of smoke, flames, or extinguishing agent will enter any compartment occupied by the crew or passengers. Each compartment in this category shall be equipped with a separate system of an approved type smoke detector or fire detector other than heat detector to give warning at the pilot or flight engineer station. Hand fire extinguishers shall be readily available for use in all compartments of this category. Compartments in this category shall be completely lined with fire-resistant material, except that additional service lining of flame-resistant material may be employed.

(c) Cargo and baggage compartments shall be classified in the "C" category, if they do not conform with the requirements for the "A" or "B" categories. Each compartment of the "C" category shall be equipped with: (1) A separate system of an approved type smoke detector or fire detector other than heat detector to give warning at the pilot or flight engineer station, and (2) an approved built-in fire-extinguishing system controlled from the pilot or flight engineer station. Means shall be provided to exclude hazardous quantities of smoke, flames, or extinguishing agent from entering into any compartment occupied by the crew or passengers. Ventilation and drafts shall be further controlled within each such cargo or baggage compartment of the extent that the extinguishing agent provided can control any fire which may start within the compartment. All cargo and baggage compartments of this category shall be completely lined with fire-resistant material, except that additional service lining of flame-resistant material may be employed.

§ 40.306 *Proof of compliance.* Compliance with those provisions of § 40.305 which refer to compartment accessibility, the entry of hazardous quantities of smoke or extinguishing agent into com-

[4] The requirements of §§ 40.301 through 40.333 are taken directly from Part 04, as of November 1, 1946, and are the requirements made applicable by the Board in Amendment 61–2, effective November 1, 1946, to all aircraft powered by engines of more than 600 horsepower each for maximum continuous operation when used in passenger service. As the requirements on Part 04 pertaining to liquid-cooling systems are not applicable they have been omitted from this part.

partments occupied by the crew or passengers, and the dissipation of the extinguishing agent in category "C" compartments shall be demonstrated by tests in flight. It shall also be demonstrated during these tests that no inadvertent operation of smoke or fire detectors in adjacent or other compartments within the airplane would occur as a result of fire contained in any one compartment, either during or after extinguishment, unless the extinguishing system floods such compartments simultaneously.

§ 40.307 *Propeller de-icing fluid.* If combustible fluid is used for propeller deicing, the provisions of §§ 40.321 through 40.325 shall be complied with.

§ 40.308 *Pressure cross feed arrangements.* Pressure cross feed lines shall not pass through portions of the airplane devoted to carrying personnel or cargo unless means are provided to permit the flight personnel to shut off the supply of fuel to these lines, or unless the lines are enclosed in a fuel and fume proof enclosure that is ventilated and drained to the exterior of the airplane. Such enclosures need not be used if these lines incorporate no fittings on or within the personnel or cargo areas and are suitably routed or protected to safeguard against accidental damage. Lines which can be isolated from the remainder of the fuel system by means of valves at each end shall incorporate provisions for the relief of excessive pressures that may result from exposure of the isolated line to high ambient temperatures.

§ 40.309 *Location of fuel tanks.* Location of fuel tanks shall comply with the provisions of § 40.322. In addition, no portion of engine nacelle skin which lies immediately behind a major air egress opening from the engine compartment shall act as the wall of an integral tank. Fuel tanks shall be isolated from personnel compartments by means of fume and fuel proof enclosures.

§ 40.310 *Fuel system lines and fittings.* Fuel lines shall be installed and supported in a manner that will prevent excessive vibration and will be adequate to withstand loads due to fuel pressure and accelerated flight conditions. Lines which are connected to components of the airplane between which relative motion may exist shall incorporate provisions for flexibility. Flexible connections in lines which may be under pressure and subjected to axial loading shall employ flexible hose assemblies rather than hose clamp connections. Flexible hose shall be of an acceptable type or proven suitable for the particular application.

§ 40.311 *Fuel lines and fittings in designated fire zones.* Fuel lines and fittings in all designated fire zones (see § 40.321) shall comply with the provisions of § 40.324.

§ 40.312 *Fuel valves.* In addition to the requirements contained in § 40.323 for shutoff means, all fuel valves shall be provided with positive stops or suitable index provisions in the "on" and "off" positions and shall be supported in such a manner that loads resulting from their operation or from accelerated flight conditions are not transmitted to the lines connected to the valve.

§ 40.313 *Oil lines and fittings in designated fire zones.* Oil lines and fittings in all designated fire zones (see § 40.321) shall comply with the provisions of § 40.324.

§ 40.314 *Oil valves.* Requirements of § 40.323 for shutoff means shall be complied with. Closing of oil shutoff means shall not prevent feathering the propeller, unless equivalent safety provisions are incorporated. All oil valves shall be provided with positive stops or suitable index provisions in the "on" and "off" positions, and shall be supported in such a manner that loads resulting from their operation or from accelerated flight conditions are not transmitted to the lines attached to the valve.

§ 40.315 *Oil system drains.* Accessible drains shall be provided to permit safe drainage of the entire oil system and shall incorporate means for positive or automatic locking in the closed position. (See also § 40.325)

§ 40.316 *Engine breather line.* Engine breather lines shall be so arranged that condensed water vapor which may freeze and obstruct the line cannot accumulate at any point. Breathers shall discharge in a location which will not constitute a fire hazard in case foaming occurs and so that oil emitted from the line will not impinge upon the pilots' windshield. The breather shall not discharge into the engine air induction system. (See also § 40.325)

§ 40.317 *Fire walls.* All engines, auxiliary power units, fuel-burning heaters, and other combustion equipment which are intended for operation in flight shall be isolated from the remainder of the airplane by means of fire walls or shrouds, or other equivalent means.

§ 40.318 *Fire-wall construction.* Fire walls and shrouds shall be constructed in such a manner that no hazardous quantity of air, fluids, or flame can pass from the engine compartment to other portions of the airplane. All openings in the fire wall or shroud shall be sealed with close-fitting fireproof grommets, bushings, or fire-wall fittings. Fire walls and shrouds shall be constructed of fireproof material and shall be protected against corrosion. The following materials have been found to comply with this requirement:

(a) Heat and corrosion resistant steel 0.015 inch thick;

(b) Low carbon steel, suitably protected against corrosion, 0.018 inch thick.

§ 40.319 *Cowling.* Cowling shall be constructed and supported in such a manner as to be capable of resisting all vibration, inertia, and air loads to which it may normally be subjected. Provision shall be made to permit rapid and complete drainage of all portions of the cowling in all normal ground and flight attitudes. Drains shall not discharge in locations constituting a fire hazard. Cowling, unless otherwise specified by these regulations, shall be constructed of fire-resistant material. Those portions of the cowling which are subjected to high temperatures due to their proximity to exhaust system parts or exhaust gas impingement shall be constructed of fireproof material.

§ 40.320 *Engine accessory section diaphragm.* Unless equivalent protection can be demonstrated by other means, a diaphragm shall be provided on air-cooled engines to isolate the engine power section and all portions of the exhaust system from the engine accessory compartment. This diaphragm shall comply with the provisions of § 40.318.

§ 40.321 *Powerplant fire protection.* Engine accessory sections, installations where no isolation is provided between the engine and accessory compartment, also regions wherein lie auxiliary power units, fuel-burning heaters, and other combustion equipment shall be referred to as designated fire zones. Such zones shall be protected from fire by compliance with §§ 40.322 through 40.325.

§ 40.322 *Flammable fluids.* No tanks or reservoirs which are a part of a system containing flammable fluids or gases shall be located in designated fire zones, except where the fluid contained, the design of the system, the materials used in the tank, the shutoff means, and all connections, lines, and controls are such as to provide equivalent safety. Not less than ½ inch of clear air space shall be provided between any tank or reservoir and a fire wall or shroud isolating a designated fire zone.

§ 40.323 *Shutoff means.* Means for each individual engine shall be provided for shutting off or otherwise preventing hazardous quantities of fuel, oil, de-icer, and other flammable fluids from flowing into, within, or through any designated fire zone, except that means need not be provided to shut off flow in lines forming an integral part of an engine. In order to facilitate rapid and effective control of fires, such shutoff means shall permit an emergency operating sequence which is compatible with the emergency operation of other equipment, such as feathering the propeller. Shutoff means shall be located outside of designated fire zones, unless equivalent safety is provided (see § 40.322), and it shall be shown that no hazardous quantity of such flammable fluid will drain into any designated fire zone after shutting-off has been accomplished. Adequate provisions shall be made to guard against inadvertent operation of the shutoff means and to make it possible for the crew to reopen the shutoff means after it has once been closed.

§ 40.324 *Lines and fittings.* All lines and fittings for same located in designated fire zones which carry flammable fluids or gases and which are under pressure, or which attach directly to the engine, or are subject to relative motion between components, exclusive of those lines and fittings forming an integral part of the engine, shall be flexible, fire-resistant lines with fire-resistant factory-fixed detachable or other approved fire-resistant ends. Lines and fittings which are not subject to pressure or to relative

motion between components shall be of fire-resistant materials.

§ 40.325 *Vent and drain lines.* All vent and drain lines and fittings for same located in designated fire zones and which carry flammable fluids or gases shall comply with the provisions of § 40.324, if the Administrator finds that rupture or breakage of a particular drain or vent line may result in a fire hazard.

§ 40.326 *Fire-extinguisher systems.* (a) Unless it can be demonstrated that equivalent protection against destruction of the airplane in case of fire is provided by the use of fireproof materials in the nacelle and other components which would be subjected to flame, fire-extinguishing systems shall be provided to serve all designated fire zones.

(b) Materials in the fire-extinguishing system shall not react chemically with the extinguishing agent so as to constitute a hazard.

§ 40.327 *Fire-extinguishing agents.* Extinguishing agents employed shall be methyl bromide, carbon dioxide, or any other agent which has been demonstrated to provide equivalent extinguishing action. If methyl bromide or any other toxic extinguishing agent is employed, provisions shall be made to prevent the entrance of harmful concentrations of fluid or fluid vapors into any personnel compartment either due to leakage during normal operation of the airplane or as a result of discharging the fire extinguisher on the ground or in flight when a defect exists in the extinguisher system. If a methyl bromide system is provided, the containers shall be charged with dry agent and shall be sealed by the fire-extinguisher manufacturer or any other party employing satisfactory recharging equipment. If carbon dioxide is used, it shall not be possible to discharge sufficient gas into personnel compartments to constitute a hazard from the standpoint of suffocation of the occupants.

§ 40.328 *Extinguishing agent container pressure relief.* Extinguisher agent containers shall be provided with a pressure relief to prevent bursting of the container due to excessive internal pressures. The discharge line from the relief connection shall terminate outside the airplane in a location convenient for inspection on the ground. An indicator shall be provided at the discharge end of the line to provide a visual indication when the container has discharged.

§ 40.329 *Extinguishing agent container compartment temperature.* Precautions shall be taken to assure that the extinguishing agent containers are installed in locations where reasonable temperatures can be maintained for effective use of the extinguisher system.

§ 40.330 *Fire-extinguishing system materials.* All components of fire-extinguishing systems located in designated fire zones shall be constructed of fireproof materials, except for connections which are subject to relative motion between components of the airplane, in which case they shall be of flexible fire-resistant construction so located as to minimize the possibility of failure.

§ 40.331 *Fire-detector systems.* Quick-acting fire detectors shall be provided in all designated fire zones and shall be sufficient in number and location to assure the detection of fire which may occur in such zones.

§ 40.332 *Fire detectors.* Fire detectors shall be constructed and installed in such a manner as to assure their ability to resist without failure, all vibration, inertia, and other loads to which they may normally be subjected. Detectors shall be unaffected by exposure to oil, water, or other fluids or fumes which may be present.

§ 40.333 *Protection of other airplane components against fire.* All airplane surfaces aft of the nacelles in the region of one nacelle diameter on both sides of the nacelle center line shall be constructed of fire-resistant material. This provision need not be applied to tail surfaces lying behind nacelles unless the dimensional configuration of the aircraft is such that the tail surfaces could be affected readily by heat, flames, or sparks emanating from a designated fire zone or engine compartment of any nacelle.

§ 40.340 *Control of engine rotation.* All aircraft shall be provided with means for individually stopping and restarting the rotation of any engine in flight.

§ 40.341 *Fuel system independence.* Aircraft fuel systems shall be arranged in such manner that the failure of any one component will not result in the irrecoverable loss of power of more than one engine. A separate fuel tank need not be provided for each engine if the Administrator finds that the fuel system incorporates features which provide equivalent safety.

§ 40.342 *Induction system ice prevention.* Means for preventing the malfunctioning of each engine due to ice accumulation in the engine air induction system shall be provided for all aircraft.

§ 40.343 *Carriage of cargo in passenger compartments.* When operating conditions require the carriage of cargo which cannot be loaded in approved cargo racks, bins, or compartments which are separate from passenger compartments, such cargo may be carried in a passenger compartment if the following requirements are complied with: *Provided,* That the Administrator, under a particular set of circumstances, may authorize deviations from these requirements when he finds that safety will not be adversely affected and that it is in the public interest to carry such cargo:

(a) It shall be packaged or covered in a manner to avoid possible injury to passengers.

(b) It shall be properly secured in the aircraft by means of safety belts or other tie-downs possessing sufficient strength to eliminate possibility of shifting under all normally anticipated flight and ground conditions.

(c) It shall not be carried aft of or directly above seated passengers.

(d) It shall not impose any loads on seats or on the floor structure which exceed the designated loads for those components.

(e) It shall not be placed in any position which restricts the access to or use of any required emergency or regular exit or the use of the aisle between the crew and the passenger compartments.

[F. R. Doc. 52-8333; Filed, July 29, 1952; 8:49 a. m.]

NOTICES

DEPARTMENT OF STATE

[Public Notice 111]

REGISTER OF VOLUNTARY FOREIGN AID AGENCIES

Under authority of section 4 of the act of May 26, 1949 (63 Stat. 111; 5 U. S. C. Supp. 151 (c)) and Public Notice 32, effective February 17, 1950 (15 F. R. 1049), notice is hereby given that, in accordance with the last paragraph of Departmental Regulation 108.158 of July 8, 1952 (17 F. R. 6083), the following agencies are registered as voluntary foreign aid agencies; or are affiliates of registered voluntary foreign aid agencies:

Aid Refugee Chinese Intellectuals, Inc., 537 Fifth Avenue, New York 17, N. Y.

American Committee for Resettlement of Polish Displaced Persons, 1520 West Division Street, Chicago 22, Ill.

American Federation of International Institutes, 11 West Forty-second Street, New York 18, N. Y.

American Friends of Austrian Children, 202 East Nineteenth Street, 9th Floor, New York 3, N. Y.

American Friends Service Committee, 20 South Twelfth Street, Philadelphia 7, Pa.

Affiliate:

American Foundation for Overseas Blind, 22 West Seventeenth Street, New York 11, N. Y.

American Fund for Czechoslovak Refugees, 1775 Broadway, Room 607, New York 19, N. Y.

American Jewish Joint Distribution Committee, 270 Madison Avenue, New York 16, N. Y.

American Middle East Relief, 350 Fifth Avenue, New York 1, N. Y.

American National Committee to Aid Homeless Armenians (ANCHA), 237 Powell Street, San Francisco 2, Calif.

American ORT Federation, 212 Fifth Avenue, New York 10, N. Y.

American Relief for Korea, 133 East Thirty-ninth Street, New York 16, N. Y.

American Relief for Poland, 1200 North Ashland Avenue, Chicago 22, Ill.

Brethren Service Commission, 22 South State Street, Elgin, Ill.

Church World Service, Inc., Third Floor, 120 East Twenty-third Street, New York 10, N. Y.

Congregational Christian Service Committee, 110 East Twenty-ninth Street, New York 16, N. Y.

Cooperative for American Remittances to Europe (CARE), Inc., 20 Broad Street, New York 5, N. Y.

Council of Relief Agencies Licensed for Operation in Germany (CRALOG), 20 West Fortieth Street, New York 18, N. Y.

Affiliates:
American Baptist Relief, 1628 Sixteenth Street NW., Washington 9, D. C.

Assemblies of God—Foreign Service Committee, 160 Fifth Avenue, New York 10, N. Y.

Committee on Christian Science Wartime Activities of the Mother Church, 105 Falmouth Street, Boston 15, Mass.

Russian Children's Welfare Society, 59 East Second Street, New York 3, N. Y.

Displaced Persons Committee (Orphan Program),
Order of Ahepa,
1420 K Street NW.,
Washington 5, D. C.

Foster Parents' Plan for War Children,
55 West Forty-second Street,
New York 18, N. Y.

Greek War Relief Association,
221 West Fifty-seventh Street,
New York 19, N. Y.

Hadassah,
1819 Broadway,
New York 23, N. Y.

Hebrew Sheltering and Immigrant Aid Society (HIAS),
425 Lafayette Street,
New York 3, N. Y.

International Rescue Committee, Inc.
62 West Forty-fifth Street,
New York 36, N. Y.

International Social Service—American Branch,
425 Fourth Avenue,
New York 16, N. Y.

Iran Foundation, Inc.,
Empire State Building, Room 6807,
New York 1, N. Y.

Licensed Agencies for Relief in Asia (LARA),
20 West Fortieth Street,
New York 18, N. Y.

Little House of Saint-Pantaleon,
107 South Avolyn Avenue,
Ventnor, N. J.

Lutheran Service to Refugees,
3919 John R,
Detroit, 1, Mich.

Lutheran World Relief,
50 Madison Avenue,
New York 10, N. Y.

Mennonite Central Committee,
Akron, Pa.

National CIO Community Service Committee,
1776 Broadway,
New York 19, N. Y.

National Travelers Aid Association,
425 Fourth Avenue,
New York 16, N. Y.

Near East Foundation,
54 East Sixty-fourth Street,
New York 21, N. Y.

Affiliate:
American Foundation for Overseas Blind,
22 West Seventeenth Street,
New York 11, N. Y.

Polish Immigration Committee,
25 St. Marks Place,
New York 3, N. Y.

Refuge des Petits,
30 Broad Street, Forty-seventh Floor,
New York 4, N. Y.

Resettlement Service—National Lutheran Council,
145 East Thirty-second Street,
New York 16, N. Y.

Salvation Army, National Headquarters,
120–130 West Fourteenth Street,
New York 11, N. Y.

Save the Children Federation,
80 Eighth Avenue,
New York 11, N. Y.

Selfhelp of Emigres from Central Europe,
147 West Forty-second Street, Room 519,
New York 18, N. Y.

Serbian National Defense Council,
Division of Displaced Persons,
54 West Randolph Street,
Chicago 1, Ill.

The Federation of Russian Charitable Organizations of the United States,
376 Twentieth Avenue,
San Francisco 21, Calif.

Tolstoy Foundation,
300 West Fifty-eighth Street,
New York 19, N. Y.

Unitarian Service Committee,
9 Park Street,
Boston 8, Mass.
New York Office
31 Union Square West,
New York 3, N. Y.

Affiliate:
Universalist Service Committee,
16 Beacon Street,
Boston, 8, Mass.

United Friends of Needy and Displaced People of Yugoslavia, 487 Onderdonk Avenue, Brooklyn 27, N. Y.

United Lithuanian Relief Fund of America, 105 Grand Street, Brooklyn 11, N. Y.

United Service for New Americans, 15 Park Row, New York 7, N. Y.

United States Book Exchange, c/o Library of Congress, Washington 25, D. C.

U. S. Committee for the Care of European Children, 215 Fourth Avenue, New York 3, N. Y.

United Ukrainian American Relief Committee, 45 DeLong Building, Thirteenth and Chestnut Streets, Philadelphia 7, Pa.

War Relief Services—National Catholic Welfare Conference, 350 Fifth Avenue, New York 1, N. Y.

Affiliates:
American Hungarian Relief, 246 Fifth Avenue, Room 509, New York 1, N. Y.
American Relief to Austria, 149 Madison Avenue, 12th Floor, New York 16, N. Y.
World Student Service Fund, 20 West Fortieth Street, New York 18, N. Y.
Y. W. C. A. World Emergency Fund, 600 Lexington Avenue, New York 22, N. Y.

These registrations shall remain in force until amended, suspended, or terminated in accordance with 22 CFR 98.5 and 98.8 as established by Departmental Regulation 108.158 of July 8, 1952 (17 F. R. 6083).

Issued: July 21, 1952.

WILLIARD L. THORP,
Assistant Secretary of State.

[F. R. Doc. 52-8317; Filed, July 29, 1952; 8:46 a. m.]

[Public Notice 112]

FIELD ORGANIZATION

Pursuant to the requirements of section 3 (a) (1) of the Administrative Procedure Act (5 U. S. C. 1002; 60 Stat. 238), notice is hereby given that the Field Organization of the Department of State as described in Department of State Public Notice 43 of April 27, 1950 (15 F. R. 2498), is amended as follows:

1. Effective April 28, 1952, the date on which the Japanese Peace Treaty became effective, the Office of the United States Political Advisor and its Branches in Japan were redesignated as follows:

a. American Embassy: Tokyo.
b. American Consulates General: (1) Osaka-Kobe, and (2) Yokohama.
c. American Consulates: (1) Nagoya, (2) Fukuoka, and (3) Sapporo.

2. Effective June 25, 1952, the American Legation at Saigon, Vietnam, and the American Legation at Phnom Penh, Cambodia, were raised to the rank of Embassy.

Issued: July 23, 1952.

For the Secretary of State.

WALTER A. RADIUS,
Director,
Management Staff.

[F. R. Doc. 52-8318; Filed, July 29, 1952; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6364]

TENNESSEE VALLEY AUTHORITY ET AL.

NOTICE OF ORDER SUPPLEMENTING ORDER DETERMINING EMERGENCY AND GRANTING EXEMPTION FOR USE OF INTERCONNECTIONS

JULY 24, 1952.

In the matters of Tennessee Valley Authority, Public Service Company of Indiana, Inc., Atomic Energy Commission, the Dayton Power and Light Company, Indianapolis Power & Light Company, Southern Indiana Gas and Electric Company, Northern Indiana Public Service Company; Docket No. E-6364.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above entitled matters, supplementing order (16 F. R. 7334) determining emergency and granting exemption for use of interconnections.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-8298; Filed, July 29, 1952; 8:45 a. m.]

[Docket No. E-6369]

TENNESSEE VALLEY AUTHORITY ET AL.

NOTICE OF ORDER SUPPLEMENTING ORDER DETERMINING EMERGENCY AND GRANTING EXEMPTION FOR USE OF INTERCONNECTIONS

JULY 24, 1952.

In the matters of Tennessee Valley Authority, Atomic Energy Commission, the Cleveland Electric Illuminating

Company, Columbus and Southern Ohio Electric Company, Duquesne Light Company, the Toledo Edison Company; Docket No. E-6369.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above entitled matters, supplementing order determining emergency and granting exemption for use of interconnections.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8299; Filed, July 29, 1952; 8:45 a. m.]

[Docket No. E-6436]

GULF STATES UTILITIES CO.

NOTICE OF ORDER SUPPLEMENTING ORDER AUTHORIZING ISSUANCE OF SECURITIES

JULY 24, 1952.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above-entitled matter, supplementing order (17 F. R. 6116) authorizing issuance of securities.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8300; Filed, July 29, 1952; 8:45 a. m.]

[Docket No. E-6438]

VIRGINIA ELECTRIC AND POWER CO.

NOTICE OF ORDER AUTHORIZING MERGER OR CONSOLIDATION OF FACILITIES

JULY 24, 1952.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above entitled matter, authorizing merger or consolidation of facilities of the Hydro-Electric Corporation of Virginia by Virginia Electric and Power Company.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8301; Filed, July 29, 1952; 8:45 a. m.]

[Docket Nos. G-1612, G-1642, G-1714, G-1723, G-1724, G-1725, G-1837, G-1858]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

NOTICE OF ORDER MODIFYING DECISION

JULY 14, 1952.

In the matters of Panhandle Eastern Pipe Line Company, Docket Nos. G-1612, G-1642, G-1714, G-1723, G-1724 and G-1725; Panhandle Eastern Pipe Line Company, complainant v. Central Indiana Gas Company, defendant, Docket No. G-1858; Central Indiana Gas Company, complainant v. Panhandle Eastern Pipe Line Company, defendant, Docket No. G-1837.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above entitled matters, modifying decision of the Presiding Examiner, issued to Panhandle Eastern Pipe Line Company in Docket No. G-1642.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8295; Filed, July 29, 1952; 8:45 a. m.]

[Docket No. G-2003]

MOUNTAIN FUEL SUPPLY CO.

NOTICE OF APPLICATION

JULY 24, 1952.

Take notice that Mountain Fuel Supply Company (Applicant), a Utah corporation having its principal place of business at 36 South State Street, Salt Lake City, Utah, filed on July 14, 1952, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas compression facilities on Applicant's main transmission line as hereinafter described.

Applicant proposes to install compressors of 2640 horsepower (sea level rating) together with necessary facilities on its main transmission line in Uinta County, Wyoming, at the point of interconnection with Applicant's Church Buttes field pipeline, for the purpose of meeting a deficiency in its ability to supply the peak load requirements of its downstream customers in Utah and Wyoming. Applicant states that this proposed compressor station would increase deliverability to Utah from 165 Mmcf a day to 177 Mmcf a day. Applicant estimates the cost of this station, auxiliaries, and appurtenant facilities to be $772,000, and proposes to finance the project from its available cash funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 13th day of August 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8302; Filed, July 29, 1952; 8:45 a. m.]

[Docket No. G-2004]

TEXAS ILLINOIS NATURAL GAS PIPELINE CO.

NOTICE OF APPLICATION

JULY 24, 1952.

Take notice that Texas Illinois Natural Gas Pipeline Company (Applicant), a Delaware corporation having its principal place of business at 20 North Wacker Drive, Chicago 6, Illinois, filed on July 16, 1952, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the transportation and sale of natural gas in the quantities and under the conditions hereinafter described.

Applicant proposes to transport and sell natural gas for resale to Allied Gas Company in quantities not to exceed 501 Mcf per day, this gas to be consumed by the Department of the Air Force for use at its Chanute Air Force Base at Rantoul, Illinois, for cooking, and water and space heating. Applicant states that the above quantities of natural gas will be taken out of previously authorized but presently unallocated capacity, and that no additional facilities or costs will be entailed.

Protests of petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 13th day of August 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8303; Filed, July 29, 1952; 8:45 a. m.]

[Project No. 1181]

WESTERN PACIFIC RAILROAD CO.

NOTICE OF ORDER ACCEPTING SURRENDER OF LICENSE

JULY 24, 1952.

Notice is hereby given that, on July 23, 1952, the Federal Power Commission issued its order entered July 22, 1952, in the above entitled matter, accepting surrender of license.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8236; Filed, July 29, 1952; 8:45 a. m.]

[Project No. 1250]

CITY OF PASADENA, CALIF.

NOTICE OF FINDINGS AND ORDER

JULY 24, 1952.

Notice is hereby given that, on July 24, 1952, the Federal Power Commission issued its order, entered July 22, 1952, granting exemption from payment of annual charges, in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-8237; Filed, July 29, 1952; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27252]

LIQUEFIED CHLORINE GAS FROM BATON ROUGE AND NORTH BATON ROUGE, LA., TO POINTS IN OHIO, INDIANA, AND WISCONSIN

APPLICATION FOR RELIEF

July 25, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-

haul provision of section 4 (1) of the Intertsate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to Agent W. P. Emerson, Jr.'s tariff I. C. C. No. 378. pursuant to fourth-section order No. 16101.

Commodities involved: Liquefied chlorine gas, in tank-car loads.

From: Baton Rouge and North Baton Rouge, La.

To: Cincinnati, Ohio, Indianapolis, Ind., and Madison, Wis.

Grounds for relief: Circuitous routes and operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-8308; Filed, July 29, 1952; 8:46 a. m.]

[4th Sec. Application 27253]

RAIL-WATER CLASS RATES BETWEEN BALTIMORE, MD., AND THE SOUTH

APPLICATION FOR RELIEF

JULY 25, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Baltimore Steam Packet Company and other carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1312.

Involving: Class rates.

Between: Baltimore, Md., and points taking same rates, on the one hand, and points in southern territory, on the other, over rail-water or water-rail routes.

Grounds for relief: Rail competition, circuity, grouping, and to maintain rates differentially related to all-rail rates.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1312.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-8309; Filed, July 29, 1952; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-171, 59-92]

NORTH AMERICAN CO. AND NORTH AMERICAN UTILITY SECURITIES CORP.

ORDER DIRECTING DISSOLUTION AND APPROVING PLAN

JULY 23, 1952.

In the matter of The North American Company, File No. 54-171; North American Utility Securities Corporation, The North American Company, File No. 59-92.

The North American Company ("North American"), a registered holding company, having filed a plan and an amendment thereto ("Amended Plan") pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("the act") providing, among other things, for the liquidation and dissolution of its subsidiary, North American Utility Securities Corporation ("NAUSCORP") by a cash payment of $9.00 per share for the publicly held common stock of NAUSCORP and the distribution of the remaining assets of NAUSCORP to North American;

The Commission having by notice and order dated August 3, 1948, instituted proceedings pursuant to section 11 (b) (2) of the act with respect to North American and NAUSCORP, and the Commission having consolidated the proceedings under sections 11 (b) (2) and 11 (e) of the act;

Public hearings having been held after appropriate notice, at which hearings all interested persons were afforded an opportunity to be heard;

North American having requested the Commission to enter an order finding that the Amended Plan is necessary to effectuate the provisions of section 11 (b) of the act and is fair and equitable to the persons affected thereby;

North American having further requested the Commission, pursuant to section 11 (e) of the act, to apply to an appropriate court, in accordance with the provisions of section 18 (f) of the act, to enforce and carry out the terms and provisions of the Amended Plan;

The Commission being duly advised, and having this day issued its findings and opinion, on the basis of said findings and opinion, and pursuant to the applicable provisions of the act and the rules and regulations thereunder

It is ordered, That North American take appropriate steps, consistent with the act and the rules and regulations thereunder, to liquidate and dissolve NAUSCORP.

It is further ordered, That the Amended Plan be, and it hereby is, approved subject to the terms and conditions contained in Rule U-24 of the general rules and regulations promulgated under the act and to the following additional terms and conditions:

1. The order entered herein shall not be operative to authorize the consummation of the transactions proposed in the Amended Plan until a court of competent jurisdiction shall, upon application thereto, enter an order enforcing said plan.

2. North American and NAUSCORP shall pay only such fees and expenses in connection with the Amended Plan and the proceedings relating thereto as the Commission may approve on appropriate application made to it.

3. Jurisdiction be and it hereby is specifically reserved with respect to the following matters:

a. The supervision of efforts to locate public common stockholders entitled to a cash payment under the terms of the Amended Plan.

b. The entertaining of such further proceedings, entering of such further orders and the taking of such other action as may be necessary or appropriate to effectuate the provisions of section 11 (b) of the act and as may be appropriate in connection with the Amended Plan, the transactions incident thereto and the consummation thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-8304; Filed, July 29, 1952; 8:45 a. m.]